

EIGHTIETH DAY

WEDNESDAY, MAY 28, 2003

PROCEEDINGS

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Averitt, Barrientos, Bivins, Brimer, Carona, Deuell, Duncan, Ellis, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Ratliff, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

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

The Reverend Brandon L. Hollar, Capital Christian Center, Austin, offered the invocation as follows:

Heavenly Father, possessor of heaven and Earth, bless this assembly with grace, wisdom, and understanding. Lead them in the paths of truth so that the decisions made will lead this great state into times of prosperity, success, and peace for all the people. Cause Your protection and favor to rest upon us. In the name of the king of kings. Amen.

Senator Whitmire moved that the reading of the Journal of the proceedings of yesterday be dispensed with and the Journal be approved as printed.

The motion prevailed without objection.

CO-AUTHOR OF SENATE RESOLUTION 985

On motion of Senator Hinojosa, Senator Lucio will be shown as Co-author of **SR 985**.

PHYSICIAN OF THE DAY

Senator Wentworth was recognized and presented Dr. Michael Dominguez of San Antonio as the Physician of the Day.

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

SENATE BILL 1211 WITH HOUSE AMENDMENT

Senator Van de Putte called **SB 1211** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1211** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to collateral protection insurance.

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

SECTION 1. Section 307.051, Finance Code, is amended by amending Subsection (e) and adding Subsection (e-1) to read as follows:

(e) A premium for collateral protection insurance covering collateral other than real property may not be based on an amount that exceeds the actual amount of unpaid indebtedness of the debtor as of the effective date of the policy. This condition applies without regard to whether the coverage under the policy limits the insurer's liability to:

- (1) the amount of unpaid debt;
- (2) the cash value of the collateral; or
- (3) the cost of repair of the collateral.

(e-1) With respect to collateral protection insurance covering real property, a creditor, at the creditor's option, may obtain insurance that will cover either the replacement cost of improvements or the amount of unpaid indebtedness, subject to policy limits. The debtor shall be obligated to reimburse the creditor for the premium, finance charges, and any other charges incurred by the creditor in connection with the placement of the insurance. The creditor may use the previous evidence of insurance coverage furnished by the debtor to determine the sufficient level of replacement cost coverage to be provided.

SECTION 2. Sections 307.052(a) and (b), Finance Code, are amended to read as follows:

(a) A creditor who requires collateral protection insurance that is paid for directly or indirectly by a debtor may place collateral protection insurance if:

- (1) the debtor has entered into a credit transaction with the creditor for which a credit agreement exists;
- (2) the credit agreement requires the debtor to maintain insurance on the collateral; and
- (3) a notice has been included in the credit agreement or a separate document provided to the debtor at the time the credit agreement is executed that states that:

(A) the debtor is required to:

(i) keep the collateral insured against damage in the amount the creditor specifies ~~[equal to the debtor's indebtedness to the creditor]~~;

(ii) purchase the insurance from an insurer that is authorized to do business in this state or an eligible surplus lines insurer; and

(iii) name the creditor as the person to be paid under the policy in the event of a loss;

(B) the debtor must, if required by the creditor, deliver to the creditor a copy of the policy and proof of the payment of premiums; and

(C) if the debtor fails to meet any requirement listed in Paragraph (A) or (B), the creditor may obtain collateral protection insurance on behalf of the debtor at the debtor's expense.

(b) Not later than the 31st day after the date the collateral protection insurance is charged to the debtor, the creditor, by prepaid, first class mail, shall mail to each debtor at the last known address on file with the creditor a notice that states:

(1) that the creditor has purchased or will purchase collateral protection insurance on behalf of the debtor and at the debtor's expense as provided by the credit agreement;

(2) the type of insurance that the creditor has obtained or will obtain, the extent of the coverage, and whose interest the policy protects;

(3) the beginning and ending dates of the policy period;

(4) the total cost of the policy to the debtor;

(5) the annual interest rate charged on the cost of insurance if that rate is different from the rate charged in the related credit transaction;

(6) the manner in which the debtor may pay the cost of insurance, interest, or finance charge relating to the purchase of the collateral protection insurance; ~~and~~

(7) at the option of the creditor, other repayment options to which the debtor has agreed in the original credit transaction; and

(8) if collateral protection insurance covering real property is obtained under Section 307.051(e-1):

(A) that coverage may be available to the debtor through the Texas FAIR plan at a lower cost; and

(B) contact information about the Texas FAIR plan.

SECTION 3. The change in law made by this Act applies only to a credit agreement entered into on or after the effective date of this Act. A credit agreement entered into before the effective date of this Act is governed by the law in effect when the credit agreement was entered into, and the former law is continued in effect for that purpose.

SECTION 4. 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, 2003.

The amendment was read.

Senator Van de Putte moved to concur in the House amendment to **SB 1211**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 1581 WITH HOUSE AMENDMENT

Senator Wentworth called **SB 1581** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment

Amend **SB 1581** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to excepting an audit working paper of a county auditor or a municipal auditor from required disclosure under the public information law.

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

SECTION 1. Section 552.116(a), Government Code, is amended to read as follows:

(a) An audit working paper of an audit of the state auditor or the auditor of a state agency, an ~~[or]~~ institution of higher education as defined by Section 61.003, Education Code, a county, or a municipality is excepted from the requirements of Section 552.021. If information in an audit working paper is also maintained in another record, that other record is not excepted from the requirements of Section 552.021 by this section.

SECTION 2. The change in law made by this Act applies to audit working papers created before, on, or after the effective date of this Act.

SECTION 3. 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, 2003.

The amendment was read.

Senator Wentworth moved to concur in the House amendment to **SB 1581**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 861 WITH HOUSE AMENDMENTS

Senator Janek called **SB 861** 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 861** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to access to birth records under the public information law.

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

SECTION 1. Section 552.115, Government Code, is amended by amending Subsection (a) and adding Subsections (c), (d), and (e) to read as follows:

(a) A birth or death record maintained by the bureau of vital statistics of the Texas Department of Health or a local registration official is excepted from the requirements of Section 552.021, except that:

(1) a birth record is public information and available to the public on and after the 75th ~~[50th]~~ anniversary of the date of birth as shown on the record filed with the bureau of vital statistics or local registration official;

(2) a death record is public information and available to the public on and after the 25th anniversary of the date of death as shown on the record filed with the bureau of vital statistics or local registration official;

(3) a general birth index or a general death index established or maintained by the bureau of vital statistics or a local registration official is public information and available to the public to the extent the index relates to a birth record or death record that is public information and available to the public under Subdivision (1) or (2);

(4) a summary birth index or a summary death index prepared or maintained by the bureau of vital statistics or a local registration official is public information and available to the public; and

(5) a birth or death record is available to the chief executive officer of a home-rule municipality or the officer's designee if:

(A) the record is used only to identify a property owner or other person to whom the municipality is required to give notice when enforcing a state statute or an ordinance;

(B) the municipality has exercised due diligence in the manner described by Section 54.035(e), Local Government Code, to identify the person; and

(C) the officer or designee signs a confidentiality agreement that requires that:

(i) the information not be disclosed outside the office of the officer or designee, or within the office for a purpose other than the purpose described by Paragraph (A);

(ii) the information be labeled as confidential;

(iii) the information be kept securely; and

(iv) the number of copies made of the information or the notes taken from the information that implicate the confidential nature of the information be controlled, with all copies or notes that are not destroyed or returned remaining confidential and subject to the confidentiality agreement.

(c) Subsection (a)(1) does not apply to the microfilming agreement entered into by the Genealogical Society of Utah, a nonprofit corporation organized under the laws of the State of Utah, and the archives and information services division of the Texas State Library and Archives Commission.

(d) For the purposes of fulfilling the terms of the agreement in Subsection (c), the Genealogical Society of Utah shall have access to birth records on and after the 50th anniversary of the date of birth as shown on the record filed with the bureau of vital statistics or local registration official.

(e) The Genealogical Society of Utah may not sell or otherwise make available to any individual or other entity any birth record to which the society gains access under an agreement with the archives and information services division of the Texas State Library and Archives Commission.

SECTION 2. Section 191.004(c), Local Government Code, is amended to read as follows:

(c) Subsection (a) does not apply to birth and death records maintained under the vital statistics laws of this state as provided by Title 3, Health and Safety Code [Chapter 41, Acts of the 40th Legislature, 1st Called Session, 1927 (Rules 34a-55a, Article 4477, Vernon's Texas Civil Statutes)]. The [county clerk shall allow access to

~~and give attested copies of a birth record on and after the 50th anniversary of the date on which it is filed and shall allow access to and give attested copies of a death record on and after the 25th anniversary of the date on which it is filed. Before that time, the] county clerk shall allow access to and give attested copies of those records only as provided by the vital statistics laws, ~~[and]~~ rules adopted under those laws, and Chapter 552, Government Code.~~

SECTION 3. This Act takes effect September 1, 2003.

Floor Amendment No. 1

Amend **CSSB 861** as follows:

On page 3, line 10, after "official" insert the following:

, but such birth records shall not be made available to the public until the 75th anniversary of the date of birth as shown on the record

On page 3, line 11, strike subsection (e).

The amendments were read.

Senator Janek moved to concur in the House amendments to **SB 861**.

The motion prevailed by a viva voce vote.

SENATE BILL 1022 WITH HOUSE AMENDMENT

Senator Madla called **SB 1022** 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.

Committee Amendment No. 1

Amend **SB 1022** by adding the following appropriately numbered section and by renumbering the remaining sections as appropriate:

SECTION _____. Section 775.013(a), Health and Safety Code, as amended by Chapters 886 and 1333, Acts of the 77th Legislature, Regular Session, 2001, is reenacted and amended to read as follows:

(a) The petition prescribed by Section 775.011 or 775.012 must show:

(1) that the district is to be created and is to operate under Article III, Section 48-e, Texas Constitution, and Chapter 775;

(2) the name of the proposed district;

(3) the proposed district's boundaries as designated by metes and bounds or other sufficient legal description;

(4) the services that the proposed district will provide;

(5) that the creation of the proposed district complies with Sections 775.020 and 775.0205; ~~[and]~~

(6) the mailing address of each petitioner; and

(7) ~~(6)~~ the name of each municipality whose consent must be obtained under Section 775.014.

The amendment was read.

Senator Madla moved to concur in the House amendment to **SB 1022**.

The motion prevailed by a viva voce vote.

SENATE BILL 721 WITH HOUSE AMENDMENTS

Senator Lucio called **SB 721** 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 721** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED
AN ACT

relating to the creation, administration, powers, duties, operation, financing, and annexation authority of the Cameron-Hidalgo-Willacy Regional Water Authority; authorizing the issuance of bonds; providing the power of eminent domain.

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

ARTICLE 1. GENERAL PROVISIONS

SECTION 1.01. DEFINITIONS. (a) In this Act:

(1) "Authority" means the Cameron-Hidalgo-Willacy Regional Water Authority.

(2) "Board" means the board of directors of the authority.

(3) "Bond" includes a note, debenture, interim certificate or receipt, or other evidence of debt issued by the authority.

(4) "Director" means a member of the board.

(5) "District" means a district created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

(6) "Member water supply corporation" means the Olmito Water Supply Corporation, the East Rio Hondo Water Supply Corporation, the Military Highway Water Supply Corporation, the North Alamo Water Supply Corporation, the Arroyo Water Supply Corporation, or any water supply corporation added to the authority under Article 6 of this Act.

(b) Except as provided by Subsection (a) of this section, the definitions provided by Section 65.001, Water Code, apply to this Act.

SECTION 1.02. CREATION OF AUTHORITY. (a) A regional water authority, to be known as the Cameron-Hidalgo-Willacy Regional Water Authority, is created.

(b) The authority is created under and is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

(c) An election to confirm the creation of the authority is not required.

SECTION 1.03. PURPOSES OF AUTHORITY. The authority is created to:

(1) purchase, own, hold, lease, and otherwise acquire sources of a potable water supply, including groundwater and surface water;

(2) build, operate, and maintain facilities for the treatment and transportation of water;

(3) sell potable water to municipalities, districts, water supply corporations, and other persons in this state; and

(4) protect, preserve, and restore the purity and sanitary condition of water in the authority.

SECTION 1.04. FINDING OF BENEFIT. All of the land and other property included within the boundaries of the authority will be benefited by the works and projects that are to be accomplished by the authority under powers conferred by Section 59, Article XVI, Texas Constitution. The authority is created to serve a public use and benefit.

SECTION 1.05. BOUNDARIES. (a) Except as provided by Subsection (b), the authority includes all of the territory located in the service area of the Olmito Water Supply Corporation, the East Rio Hondo Water Supply Corporation, the Military Highway Water Supply Corporation, the North Alamo Water Supply Corporation, and the Arroyo Water Supply Corporation on the effective date of this Act, as described by their respective certificates of convenience and necessity issued by the Texas Commission on Environmental Quality.

(b) The authority does not include any territory located within the boundaries of the Southmost Regional Water Authority, as those boundaries are described by Chapter 511, Acts of the 67th Legislature, Regular Session, 1981.

(c) The legislature finds that the boundaries of the authority form a closure.

ARTICLE 2. BOARD OF DIRECTORS

SECTION 2.01. BOARD OF DIRECTORS. The authority is governed by a board of directors.

SECTION 2.02. QUALIFICATIONS OF DIRECTORS. To be qualified to serve as a director, a person must be:

(1) at least 21 years old; and

(2) a resident of the territory located in the authority or an employee of a member water supply corporation.

SECTION 2.03. TEMPORARY DIRECTORS. (a) Not later than the 30th day after the effective date of this Act, the governing board of each member water supply corporation shall appoint one person to serve as a temporary director.

(b) Temporary directors serve until initial directors take office on May 1, 2004.

SECTION 2.04. APPOINTMENT OF DIRECTORS. (a) The governing board of each member water supply corporation shall appoint one director to the board.

(b) Each subsequent year after the year in which initial directors are appointed, the appropriate water supply corporation or corporations shall appoint a director to the board, according to the staggering of terms established under Section 2.05(d) of this Act.

(c) Directors must be appointed not earlier than April 1 and not later than April 30 of each year.

SECTION 2.05. TERM OF OFFICE. (a) Except as provided by Subsection (d) of this section, permanent directors serve staggered three-year terms with as near to one-third as possible expiring each year.

(b) A permanent director takes office May 1 of the year the director is appointed.

(c) A person may not serve more than three terms as a permanent director.

(d) After the initial directors have been appointed, the directors shall draw lots to determine which director serves a one-year term, which two directors serve two-year terms, and which two directors serve three-year terms.

SECTION 2.06. VACANCIES. A vacancy in the office of director shall be filled by appointment of the governing board of the entity that appointed the director who vacated that office.

SECTION 2.07. VOTING AUTHORITY. Each director is entitled to one vote on any issue before the board.

SECTION 2.08. ELECTION OF OFFICERS. At the first meeting of the board after a new director takes office, the board shall elect officers for the authority, including a president, vice president, secretary, and treasurer.

ARTICLE 3. POWERS AND DUTIES

SECTION 3.01. POWERS; DUTIES. (a) The authority has the functions, powers, authority, and rights necessary to accomplish the purposes for which it is created.

(b) The authority may:

(1) acquire, own, operate, maintain, repair, improve, or extend inside or outside the authority's boundaries water or wastewater works, improvements, facilities, plants, equipment, or appliances necessary to accomplish the purposes for which the authority is created;

(2) acquire, construct, improve, maintain, or operate water and wastewater systems and treatment works necessary to provide wholesale service to authority customers;

(3) acquire, construct, improve, or maintain any water supply, reservoir, or groundwater well necessary to fully implement the powers and duties of the authority; and

(4) acquire or maintain an interest in any water supply or reservoir necessary to fully implement the powers and duties of the authority.

(c) In addition to the powers specifically provided by this Act, the authority may exercise the powers provided by Section 65.201, Water Code.

(d) The authority shall act in a manner consistent with the appropriate regional water plan.

SECTION 3.02. RULES. The authority may adopt and enforce reasonable rules to carry out its powers and duties under this Act.

SECTION 3.03. EMINENT DOMAIN. (a) The authority may exercise the power of eminent domain to acquire by condemnation a fee simple or other interest in property located in its territory if the property interest is necessary to the exercise of the rights or duties conferred by this Act.

(b) The authority shall exercise the power of eminent domain in the manner provided by Chapter 21, Property Code, except that the authority is not required to deposit in the trial court money or a bond under Section 21.021(a)(2) or (3), Property Code.

(c) In a condemnation proceeding brought by the authority, the authority is not required to:

(1) pay in advance or give bond or other security for costs in the trial court;

(2) give bond for the issuance of a temporary restraining order or a temporary injunction; or

(3) give bond for costs or supersedeas on an appeal or writ of error.

SECTION 3.04. SERVICE OUTSIDE AUTHORITY. The authority may contract to provide its services outside the boundaries of the authority.

SECTION 3.05. RATES AND CHARGES. (a) The authority may establish rates and charges to be assessed against customers of the authority for each service rendered to those customers. The rates and charges may be established by classes of customers, by project, or by area of service.

(b) If bonds payable wholly from revenue are issued, the board shall establish and revise rates of compensation for water sold and for wastewater or other services rendered by the authority that will be sufficient to pay the expense of operating and maintaining the facilities of the authority, to pay the bonds as they mature and the interest as it accrues, and to maintain the reserve and other funds as provided by the resolution or order authorizing the bonds.

(c) A municipality, district, water supply corporation, or other entity that contracts with the authority may establish, charge, and collect fees, rates, charges, rentals, and other amounts for any service or facility provided under or in connection with a contract with the authority and may pledge sufficient amounts to make all payments required under the contract.

SECTION 3.06. CONTRACTS. (a) A municipality, district, or water supply corporation doing business wholly or partially in the authority may contract with the authority if the contract is considered appropriate by the governing body of the municipality, district, or water supply corporation.

(b) The governing body of an entity described by Subsection (a) of this section may pledge to the payment of a contract any source of revenue that may be available to the governing body, including ad valorem taxes, if the entity has the authority to impose those taxes.

(c) To the extent a governing body pledges funds to the payment of the contract that are to be derived from its own water system, its wastewater system, or its combined system, the payments constitute an operating expense of that system.

SECTION 3.07. JOINT AUTHORITY. (a) The authority may enter into agreements with municipalities or districts under Chapter 791, Government Code, to accomplish any of the purposes or powers the authority is authorized to carry out under this Act.

(b) The authority may enter into joint agreements or contracts with water supply corporations, the state, or any other entity to accomplish any of the purposes or powers the authority is authorized to carry out under this Act.

SECTION 3.08. RETAIL SERVICE. If the authority provides retail water or wastewater services within the corporate limits of a municipality, the authority is subject to Section 13.255, Water Code.

SECTION 3.09. GROUNDWATER REGULATION. The authority may not regulate groundwater, including the spacing of wells and the production from wells.

ARTICLE 4. GENERAL FISCAL PROVISIONS

SECTION 4.01. TAXES PROHIBITED. The authority may not impose an ad valorem tax.

ARTICLE 5. BONDS

SECTION 5.01. ISSUANCE OF BONDS. The authority may issue bonds to provide funds to carry out the purposes authorized by Section 1.03 of this Act and the powers provided by Section 3.01 of this Act.

SECTION 5.02. EXEMPTION FROM TAXATION. A bond issued under this Act, a transaction related to the bond, and profit made in the sale of the bond are exempt from taxation by this state, a state agency, or a municipality or other political subdivision of this state.

SECTION 5.03. APPLICATION OF ADDITIONAL LAW. Sections 65.501 through 65.508, 65.510, 65.511, 65.513, and 65.515, Water Code, apply to the extent that those provisions can be made applicable.

ARTICLE 6. ADDING AND EXCLUDING TERRITORY;
CONSOLIDATION AND DISSOLUTION

SECTION 6.01. ADDITION OF ADDITIONAL ENTITIES TO AUTHORITY.

(a) On submission of a petition by the governing body of a municipality or district or any private entity, including a water supply corporation, the board may authorize the addition of the territory or service area of the governmental or private entity to the authority.

(b) The petition shall be submitted in the manner and form provided by the authority's bylaws.

(c) Before the board authorizes the addition of the territory or service area covered by the petition to the authority, the board shall give notice and hold a hearing on the petition to determine if the territory or service area will be benefited by addition to the authority and whether it is in the best interest of the authority to have the territory or service area added to the authority.

(d) On determining that the territory or service area should be added to the authority, the board shall issue an order adding the territory or service area to the authority and making the territory or service area subject to the privileges, duties, assets, and financial obligations of the authority to the same degree as other territory and service areas already included in the authority.

(e) On addition of a territory or service area to the authority under this section, the governing board of the municipality, district, private entity, or water supply corporation is entitled to appoint one director to the board. Directors authorized under this subsection are governed by Article 2 of this Act.

SECTION 6.02. APPLICATION OF ADDITIONAL LAW. In addition to Section 6.01 of this Act:

(1) territory may be added to or excluded from the district as provided by Sections 49.301 through 49.308, Water Code; and

(2) the district may be consolidated or dissolved as provided by Sections 65.723 through 65.731, Water Code.

ARTICLE 7. MISCELLANEOUS PROVISIONS

SECTION 7.01. FINDINGS RELATING TO PROCEDURAL REQUIREMENTS. (a) The proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies,

officials, or entities to which they are required to be furnished by the constitution and other laws of this state, including the governor, who has submitted the notice and Act to the Texas Commission on Environmental Quality.

(b) The Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time.

(c) All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 7.02. EFFECTIVE DATE. 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, 2003.

Floor Amendment No. 1

Amend **CSSB 721** as follows:

(1) On page 3, line 13, strike "are" and substitute "were originally".

(2) On page 6, strike lines 3-4 and substitute the following:

(d) Any project undertaken by the authority must be consistent with the regional water plan.

The amendments were read.

Senator Lucio moved to concur in the House amendments to **SB 721**.

The motion prevailed by the following vote: Yeas 31, Nays 0.

SENATE BILL 117 WITH HOUSE AMENDMENTS

Senator Staples called **SB 117** 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 117** by substituting in lieu thereof the following:

A BILL TO BE ENTITLED

AN ACT

relating to the authority of certain retired peace officers to carry certain weapons.

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

SECTION 1. Subchapter H, Chapter 1701, Occupations Code, is amended by adding Section 1701.357 to read as follows:

Sec. 1701.357. WEAPONS PROFICIENCY FOR CERTAIN RETIRED PEACE OFFICERS. (a) This section applies only to a peace officer designated as a peace officer under Article 2.12(1), (2), (3), or (10), Code of Criminal Procedure.

(b) The head of a state or local law enforcement agency may allow an honorably retired peace officer to whom this section applies an opportunity to demonstrate weapons proficiency if the retired officer provides to the agency a sworn affidavit stating that:

(1) the officer honorably retired after not less than 20 years of service as a commissioned officer;

(2) the officer's license as a commissioned officer was not revoked or suspended for any period during the officer's term of service as a commissioned officer; and

(3) the officer has no psychological or physical disability that would interfere with the officer's proper handling of a handgun.

(c) The agency shall issue a certificate of proficiency to a retired officer who satisfactorily demonstrates weapons proficiency under Subsection (b). The agency shall maintain records of any retired officer who holds a certificate issued under this section.

(d) A certificate issued under this section expires on the second anniversary of the date the certificate was issued.

(e) The head of a state or local law enforcement agency may set and collect fees to recover the expenses the agency incurs in performing duties under this section.

SECTION 2. Subsection (a), Section 46.15, Penal Code, is amended to read as follows:

(a) Sections 46.02 and 46.03 do not apply to:

(1) peace officers and neither section prohibits a peace officer from carrying a weapon in this state, regardless of whether the officer is engaged in the actual discharge of the officer's duties while carrying the weapon;

(2) parole officers and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) in compliance with policies and procedures adopted by the Texas Department of Criminal Justice regarding the possession of a weapon by an officer while on duty;

(3) community supervision and corrections department officers appointed or employed under Section 76.004, Government Code, and neither section prohibits an officer from carrying a weapon in this state if the officer is:

(A) engaged in the actual discharge of the officer's duties while carrying the weapon; and

(B) authorized to carry a weapon under Section 76.0051, Government Code; ~~(c)~~

(4) a judge or justice of the supreme court, the court of criminal appeals, a court of appeals, a district court, a criminal district court, a constitutional county court, a statutory county court, a justice court, or a municipal court who is licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code; or

(5) an honorably retired peace officer who holds a certificate of proficiency issued under Section 1701.357, Occupations Code, and is carrying a photo identification issued by the agency from which the officer retired verifying that the officer honorably retired after not less than 20 years of service as a commissioned officer.

SECTION 3. This Act takes effect September 1, 2003.

Floor Amendment No. 1

Amend **CSSB 117** as follows:

1. In SECTION 1, at the end of new Section 1701.357 (House committee printing, page 2, after line 9), insert new subsections (f) and (g) to read as follows:

(f) The amount of a fee set by a county law enforcement agency under Subsection (e) is subject to the approval of the commissioners court of the county. A county law enforcement agency that collects a fee under Subsection (e) shall deposit the amounts collected to the credit of the general fund of the county.

(g) A county law enforcement agency must obtain approval of the program authorized by this section from the commissioners court of the county before issuing a certificate of proficiency under this section.

Floor Amendment No. 2

Amend **CSSB 117**, in SECTION 1 of the bill, proposed Section 1701.357, Occupations Code, as follows:

(1) In Subsection (b), between "allow an honorably retired peace officer" and "to whom" (page 1, line 12), insert "of the agency".

(2) In Subsection (c), strike "issue a certificate of proficiency" (page 1, line 24), and substitute "establish written procedures for the issuance or denial of a certificate of proficiency under this section. The agency shall issue the certificate".

(3) In Subsection (c), between "Subsection (b)" and the period (page 2, line 2), insert "and satisfies the written procedures established by the agency".

Floor Amendment No. 1 on Third Reading

Amend **CSSB 117**, on third reading, by striking added Section 1701.357(a), Occupations Code, and substituting the following:

(a) This section applies only to:

(1) a peace officer designated as a peace officer under Article 2.12(1), (2), (3), or (10), Code of Criminal Procedure; and

(2) a federal criminal investigator designated as a special investigator under Article 2.122(1) or (5), Code of Criminal Procedure.

The amendments were read.

Senator Staples moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SB 117** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Staples, Chair; Gallegos, Williams, Janek, and Whitmire.

SENATE JOINT RESOLUTION 30 WITH HOUSE AMENDMENTS

Senator Lindsay called **SJR 30** from the President's table for consideration of the House amendments to the resolution.

The President laid the resolution and the House amendments before the Senate.

Floor Amendment No. 1

Amend **SJR 30** (House committee printing) by striking all below the resolving clause and substituting the following:

SECTION 1. Section 59, Article XVI, Texas Constitution, is amended by amending Subsection (a) and adding Subsection (c-1) to read as follows:

(a) The conservation and development of all of the natural resources of this State, and development of parks and recreational facilities, including the control, storing, preservation and distribution of its storm and flood waters, the waters of its rivers and streams, for irrigation, power and all other useful purposes, the reclamation and irrigation of its arid, semi-arid and other lands needing irrigation, the reclamation and drainage of its overflowed lands, and other lands needing drainage, the conservation and development of its forests, water and hydro-electric power, the navigation of its inland and coastal waters, and the preservation and conservation of all such natural resources of the State are each and all hereby declared public rights and duties; and the Legislature shall pass all such laws as may be appropriate thereto.

(c-1) In addition and only as provided by this subsection, the Legislature may authorize conservation and reclamation districts to develop and finance with taxes those types and categories of parks and recreational facilities that were not authorized by this section to be developed and financed with taxes before November 4, 2003. For development of such parks and recreational facilities, the Legislature may authorize indebtedness payable from taxes as may be necessary to provide for improvements and maintenance only for a conservation and reclamation district all or part of which is located in Bexar County, Bastrop County, Waller County, Travis County, Williamson County, Harris County, Galveston County, Brazoria County, Fort Bend County, or Montgomery County, or for the Tarrant Regional Water District, a Water Control and Improvement District located in whole or in part in Tarrant County. All the indebtedness may be evidenced by bonds of the conservation and reclamation district, to be issued under regulations as may be prescribed by law. The Legislature may also authorize the levy and collection within such district of all taxes, equitably distributed, as may be necessary for the payment of the interest and the creation of a sinking fund for the payment of the bonds and for maintenance of and improvements to such parks and recreational facilities. The indebtedness shall be a lien on the property assessed for the payment of the bonds. The Legislature may not authorize the issuance of bonds or provide for indebtedness under this subsection against a conservation and reclamation district unless a proposition is first submitted to the qualified voters of the district and the proposition is adopted. This subsection expands the authority of the Legislature with respect to certain conservation and reclamation districts and is not a limitation on the authority of the Legislature with respect to conservation and reclamation districts and parks and recreational facilities pursuant to this section as that authority existed before November 4, 2003.

SECTION 2. The legislature intends by the amendment proposed by Section 1 of this resolution to expand the authority of the legislature with regard to certain conservation and reclamation districts. The proposed amendment should not be construed as a limitation on the powers of the legislature or of a district with respect to parks and recreational facilities as those powers exist immediately before the amendment takes effect.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 4, 2003. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment relating to the provision of parks and recreational facilities by certain conservation and reclamation districts."

Floor Amendment No. 2

Amend the proposed House floor substitute to **SJR 30** in SECTION 3 of the joint resolution (page 2, line 31) by striking "November 4" and substituting "September 13".

Floor Amendment No. 3

Amend **SJR 30**, in SECTION 1 of the joint resolution, in proposed Section 59(c-1), Article XVI, Texas Constitution (House committee printing, page 2, line 19), between "in" and "Travis" by inserting "Bexar County".

The amendments were read.

Senator Lindsay moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the resolution.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **SJR 30** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the resolution: Senators Lindsay, Chair; Armbrister, Barrientos, Lucio, and Wentworth.

CONFERENCE COMMITTEE ON HOUSE BILL 1165

Senator Janek called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 1165** and moved that the request be granted.

The motion prevailed without objection.

The President asked if there were any motions to instruct the conference committee on **HB 1165** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Janek, Chair; Fraser, Brimer, Armbrister, and Deuell.

CONCLUSION OF MORNING CALL

The President at 11:24 a.m. announced the conclusion of morning call.

COMMITTEE SUBSTITUTE HOUSE BILL 2424 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2424** at this time on its second reading:

CSHB 2424, Relating to technical changes to taxes and fees administered by the comptroller; providing penalties.

The bill was read second time.

(Senator Estes in Chair)

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2424**, in SECTION 55 of the bill, in Section 171.802, Tax Code, by adding Subsection (e) to read as follows:

(e) A corporation may claim a credit or take a carryforward credit for a qualified capital investment made on or after January 1, 2003, without regard to whether the county in which it makes the qualified capital investment has lost its designation as a strategic investment area if:

(1) the corporation committed to the investment in that county before January 2003;

(2) at the time the corporation made the commitment, the county was designated as a strategic investment area;

(3) the total investment is at least \$100 million;

(4) the county has a population of less than 15,700; and

(5) the corporation made a qualified capital investment in the county in each of the two years preceding the year in which the corporation made the qualified capital investment under this subsection.

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

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 2424** by adding the following appropriately numbered sections to read as follows and renumbering subsequent sections accordingly:

SECTION _____. (a) Subtitle C, Title 4, Local Government Code, is amended by adding Chapter 133 to read as follows:

CHAPTER 133. CRIMINAL AND CIVIL FEES PAYABLE

TO THE COMPTROLLER

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 133.001. PURPOSE. The purpose of this chapter is to consolidate and standardize:

(1) collection of fees in criminal and civil matters by:

(A) an officer of a court for deposit in a county or municipal treasury;

or

(B) an officer of a county or municipality for deposit in the county or municipal treasury, as appropriate;

(2) remittance of those fees to the comptroller as required by this chapter and other law; and

(3) distribution of those fees by the comptroller to the proper accounts and funds in the state treasury.

Sec. 133.002. DEFINITIONS. In this chapter:

(1) "Fee" means:

(A) a criminal fee listed under Section 133.003; and

(B) a civil fee listed under Section 133.004.

(2) "Indigent" means an individual who earns not more than 125 percent of the income standard established by applicable federal poverty guidelines.

(3) "Treasurer" means the custodian of money in a municipal or county treasury, as appropriate.

Sec. 133.003. CRIMINAL FEES. This chapter applies to the following criminal fees:

(1) the consolidated fee imposed under Section 133.102;

(2) the time payment fee imposed under Section 133.103;

(3) fees for services of peace officers employed by the state imposed under Article 102.011, Code of Criminal Procedure, and forwarded to the comptroller as provided by Section 133.104;

(4) costs on conviction imposed in certain statutory county courts under Section 51.702, Government Code, and deposited in the judicial fund;

(5) costs on conviction imposed in certain county courts under Section 51.703, Government Code, and deposited in the judicial fund;

(6) the administrative fee for failure to appear or failure to pay or satisfy a judgment imposed under Section 706.006, Transportation Code; and

(7) fines on conviction imposed under Section 621.506(g), Transportation Code.

Sec. 133.004. CIVIL FEES. This chapter applies to the following civil fees:

(1) the consolidated fee on filing in district court imposed under Section 133.151;

(2) the filing fee in district court for basic civil legal services for indigents imposed under Section 133.152;

(3) the filing fee in courts other than district court for basic civil legal services for indigents imposed under Section 133.153;

(4) the filing fees for the judicial fund imposed in certain statutory county courts under Section 51.702, Government Code;

(5) the filing fees for the judicial fund imposed in certain county courts under Section 51.703, Government Code;

(6) the filing fees for the judicial fund imposed in certain statutory probate courts under Section 51.704, Government Code;

(7) fees collected under Section 118.015;

(8) marriage license fees for the family trust fund collected under Section 118.018; and

(9) marriage license or declaration of informal marriage fees for the child abuse and neglect prevention trust fund account collected under Section 118.022.

[Sections 133.005-133.050 reserved for expansion]

SUBCHAPTER B. REPORTING, COLLECTION, AND
REMITTANCE OF FEES

Sec. 133.051. COLLECTION AND REMITTANCE OF FEES. A municipality or county shall collect, record, account for, and remit to the comptroller all fees in the manner provided by this subchapter.

Sec. 133.052. DEPOSIT OF FEES. (a) An officer collecting a fee in a case in municipal court shall deposit the money in the municipal treasury.

(b) An officer collecting a fee in a justice, county, or district court shall deposit the money in the county treasury.

(c) A municipal or county clerk collecting a fee shall deposit the money in the municipal or county treasury, as appropriate.

Sec. 133.053. INTEREST-BEARING ACCOUNT. (a) The treasurer may deposit fees in an interest-bearing account.

(b) The municipality or county may retain any interest accrued on the money the treasurer deposited in the treasury if the treasurer remits the funds to the comptroller within the period prescribed by Section 133.055(a).

Sec. 133.054. RECORDS. (a) An officer or clerk collecting a fee shall keep a record of the money collected.

(b) The treasurer shall keep a record of the money collected and on deposit in the treasury.

Sec. 133.055. QUARTERLY REMITTANCE OF FEES TO THE COMPTROLLER. (a) On or before the last day of the month following each calendar quarter, the treasurer shall:

(1) remit to the comptroller the money from all fees collected during the preceding quarter, except as provided by Section 133.058; and

(2) submit to the comptroller the report required under Section 133.056 for criminal fees and Section 133.057 for civil fees.

(b) If the treasurer does not collect any fees during a calendar quarter, the treasurer shall file the report required for the quarter in the regular manner. The report must state that no fees were collected. This subsection does not apply to fees collected under Sections 14 and 19, Article 42.12, Code of Criminal Procedure, or under Section 76.013, Government Code.

Sec. 133.056. QUARTERLY REPORT FOR CRIMINAL FEES. (a) On the last day of the month following a calendar quarter, the treasurer shall report the criminal fees collected for the preceding calendar quarter.

(b) For fees collected for convictions of offenses committed on or after January 1, 2004, a municipality or county shall report the fees collected for a calendar quarter categorized according to the class of offense.

(c) For fees collected for convictions of offenses committed before January 1, 2004, a municipality or county shall report the total of fees collected for a calendar quarter.

Sec. 133.057. QUARTERLY REPORT FOR CIVIL FEES. On the last day of the month following a calendar quarter, the treasurer shall report the civil fees collected for the preceding calendar quarter.

Sec. 133.058. PORTION OF FEE RETAINED. (a) Except as otherwise provided by this section, a municipality or county may retain 10 percent of the money collected from fees as a service fee for the collection if the municipality or county remits the remainder of the fees to the comptroller within the period prescribed by Section 133.055(a).

(b) A municipality or county may retain an amount greater than 10 percent of the money collected from fees if retention of the greater amount is authorized by law.

(c) A county may retain five percent of the money collected as a service fee on the basic civil legal service for indigents filing fee.

(d) A county may not retain a service fee on the collection of a fee:

(1) for the judicial fund; or

(2) under Sections 14 and 19, Article 42.12, Code of Criminal Procedure.

Sec. 133.059. AUDIT. (a) The comptroller may audit the records of a county or municipality relating to fees collected under this chapter.

(b) Money spent from fees collected under this chapter is subject to audit by the state auditor.

[Sections 133.060-133.100 reserved for expansion]

SUBCHAPTER C. CRIMINAL FEES

Sec. 133.101. MEANING OF CONVICTION. In this subchapter, a person is considered to have been convicted in a case if:

(1) a judgment, a sentence, or both a judgment and a sentence are imposed on the person;

(2) the person receives community supervision, deferred adjudication, or deferred disposition; or

(3) the court defers final disposition of the case or imposition of the judgment and sentence.

Sec. 133.102. CONSOLIDATED FEES ON CONVICTION. (a) A person convicted of an offense shall pay as a court cost, in addition to all other costs:

(1) \$133 on conviction of a felony;

(2) \$83 on conviction of a Class A or Class B misdemeanor; or

(3) \$40 on conviction of a nonjailable misdemeanor offense, including a criminal violation of a municipal ordinance, other than a conviction of an offense relating to a pedestrian or the parking of a motor vehicle.

(b) The court costs under Subsection (a) shall be collected and remitted to the comptroller in the manner provided by Subchapter B.

(c) The money collected under this section as court costs imposed on offenses committed on or after January 1, 2004, shall be allocated according to the percentages provided in Subsection (e).

(d) The money collected as court costs imposed on offenses committed before January 1, 2004, shall be distributed using historical data so that each account or fund receives the same amount of money the account or fund would have received if the court costs for the accounts and funds had been collected and reported separately.

(e) The comptroller shall allocate the court costs received under this section to the following accounts and funds so that each receives to the extent practicable, utilizing historical data as applicable, the same amount of money the account or fund would have received if the court costs for the accounts and funds had been collected and reported separately, except that the account or fund may not receive less than the following percentages:

<u>(1) abused children's counseling</u>	<u>0.0088 percent;</u>
<u>(2) crime stoppers assistance</u>	<u>0.2581 percent;</u>
<u>(3) breath alcohol testing</u>	<u>0.5507 percent;</u>
<u>(4) Bill Blackwood Law Enforcement</u>	
<u>Management Institute</u>	<u>2.1683 percent;</u>
<u>(5) law enforcement officers</u>	
<u>standards and education</u>	<u>5.0034 percent;</u>
<u>(6) comprehensive rehabilitation</u>	<u>5.3218 percent;</u>
<u>(7) operator's and chauffeur's license</u>	<u>11.1426 percent;</u>
<u>(8) criminal justice planning</u>	<u>12.5537 percent;</u>
<u>(9) an account in the state treasury</u>	
<u>to be used only for the establishment and operation</u>	
<u>of the Center for the Study and Prevention of</u>	
<u>Juvenile Crime and Delinquency at Prairie View</u>	
<u>A&M University</u>	<u>1.2090 percent;</u>
<u>(10) compensation to victims of</u>	
<u>crime fund</u>	<u>37.6338 percent;</u>
<u>(11) fugitive apprehension account</u>	<u>12.0904 percent;</u>
<u>(12) judicial and court personnel</u>	
<u>training fund</u>	<u>4.8362 percent;</u>
<u>(13) an account in the state</u>	
<u>treasury to be used for the establishment</u>	
<u>and operation of the Correctional Management</u>	
<u>Institute of Texas and Criminal Justice</u>	
<u>Center Account</u>	<u>1.2090 percent; and</u>
<u>(14) fair defense account</u>	<u>6.0143 percent.</u>

(f) Of each dollar credited to the law enforcement officers standards and education account under Subsection (e)(5):

- (1) 33.3 cents may be used only to pay administrative expenses; and
- (2) the remainder may be used only to pay expenses related to continuing education for persons licensed under Chapter 1701, Occupations Code.

Sec. 133.103. TIME PAYMENT FEE. (a) A person convicted of an offense shall pay, in addition to all other costs, a fee of \$25 if the person:

(1) has been convicted of a felony or misdemeanor; and

(2) pays any part of a fine, court costs, or restitution on or after the 31st day after the date on which a judgment is entered assessing the fine, court costs, or restitution.

(b) The treasurer shall send 50 percent of the fees collected under this section to the comptroller. The comptroller shall deposit the fees received to the credit of the general revenue fund.

(c) The treasurer shall deposit 10 percent of the fees collected under this section in the general fund of the county or municipality for the purpose of improving the efficiency of the administration of justice in the county or municipality. The county or municipality shall prioritize the needs of the judicial officer who collected the fees when making expenditures under this subsection and use the money deposited to provide for those needs.

(d) The treasurer shall deposit the remainder of the fees collected under this section in the general revenue account of the county or municipality.

Sec. 133.104. FEES FOR SERVICES OF PEACE OFFICERS EMPLOYED BY THE STATE. (a) Fees imposed under Article 102.011, Code of Criminal Procedure, for services performed by peace officers employed by the state shall be forwarded to the comptroller after deducting four-fifths of the amount of each fee received for a service performed under Subsection (a)(1) or (a)(2) of that article, in a manner directed by the comptroller.

(b) The comptroller shall credit fees received under Subsection (a) to the general revenue fund.

[Sections 133.105-133.150 reserved for expansion]

SUBCHAPTER D. CIVIL FEES

Sec. 133.151. CONSOLIDATED CIVIL FEE ON FILING A CIVIL SUIT IN DISTRICT COURT. (a) In addition to each fee collected under Section 51.317(b)(1), Government Code, the clerk of a district court shall collect the following fees on the filing of any civil suit:

(1) \$45 for family law cases and proceedings as defined by Section 25.0002, Government Code; and

(2) \$50 for any case other than a case described by Subdivision (1).

(b) The fees under Subsection (a) shall be collected and remitted to the comptroller in the manner provided by Subchapter B.

(c) The comptroller shall allocate the fees received under this section to the following accounts and funds so that each receives to the extent practicable, utilizing historical data as applicable, the same amount of money the account or fund would have received if the fees for the accounts and funds had been collected and reported separately:

(1) the judicial fund to be used for court-related purposes for the support of the judiciary; and

(2) the basic civil legal services account of the judicial fund for use in programs approved by the supreme court that provide basic civil legal services to an indigent.

Sec. 133.152. ADDITIONAL FILING FEES FOR CERTAIN ACTIONS AND PROCEEDINGS IN DISTRICT COURT FOR BASIC CIVIL LEGAL SERVICES FOR INDIGENTS. (a) In addition to other fees authorized or required by law, the clerk of a district court shall collect the following fees on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee:

(1) \$5 in family law cases and proceedings as defined by Section 25.0002, Government Code; and

(2) \$10 in any case other than a case described by Subdivision (1).

(b) The fees under this section shall be collected and remitted to the comptroller in the manner provided by Subchapter B.

(c) The comptroller shall deposit the fees to the credit of the basic civil legal services account of the judicial fund for use in programs approved by the supreme court that provide basic civil legal services to an indigent.

Sec. 133.153. ADDITIONAL FILING FEES FOR CERTAIN ACTIONS AND PROCEEDINGS IN COURTS OTHER THAN DISTRICT COURT FOR BASIC CIVIL LEGAL SERVICES FOR INDIGENTS. (a) In addition to other fees authorized or required by law, the clerk of a court other than a district court, the courts of appeals, or the supreme court shall collect the following fees on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee:

(1) \$5 for statutory and constitutional county courts; and

(2) \$2 for justice of the peace courts.

(b) The fees shall be collected and remitted to the comptroller in the manner provided by Subchapter B.

(c) The comptroller shall deposit the fees to the credit of the basic civil legal services account of the judicial fund for use in programs approved by the supreme court that provide basic civil legal services to an indigent.

(b) This section takes effect January 1, 2004.

SECTION _____. (a) Subsection (e), Section 14, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(e) The clerk of a court that collects a fee imposed under Subsection (c)(2) shall deposit the fee to be sent to the comptroller as provided by Subchapter B, Chapter 133, Local Government Code [~~remit the fee to the comptroller~~], and the comptroller shall deposit the fee into the general revenue fund. In requiring the payment of a fee under Subsection (c)(2), the judge shall consider fines, fees, and other necessary expenses for which the defendant is obligated in establishing the amount of the fee. The judge may not:

(1) establish the fee in an amount that is greater than 25 percent of the defendant's gross income while the defendant is a participant in residential aftercare; or

(2) require the defendant to pay the fee at any time other than a time at which the defendant is both employed and a participant in residential aftercare.

(b) This section takes effect January 1, 2004.

SECTION _____. (a) Subsection (f), Section 19, Article 42.12, Code of Criminal Procedure, is amended to read as follows:

(f) A community corrections and supervision department shall deposit the ~~remitt~~ fees collected under Subsection (e) of this section to be sent to the comptroller as provided by Subchapter B, Chapter 133, Local Government Code. The comptroller shall deposit the fee in the ~~[special revenue fund to the credit of the]~~ sexual assault program fund ~~[established]~~ under Section 420.008, Government ~~[44.0061, Health and Safety]~~ Code.

(b) This section takes effect January 1, 2004.

SECTION _____. (a) Article 45.048, Code of Criminal Procedure, is amended to read as follows:

Art. 45.048. DISCHARGED FROM JAIL. (a) A defendant placed in jail on account of failure to pay the fine and costs shall be discharged on habeas corpus by showing that the defendant:

(1) is too poor to pay the fine and costs; or

(2) has remained in jail a sufficient length of time to satisfy the fine and costs, at the rate of not less than \$50 ~~[\$100]~~ for each period of time served, as specified by the convicting court in the judgment in the case.

(b) A convicting court may specify a period of time that is not less than eight hours or more than 24 hours as the period for which a defendant who fails to pay the fines and costs in the case must remain in jail to satisfy \$50 ~~[\$100]~~ of the fine and costs.

(b) This section takes effect January 1, 2004.

(c) The change in law made by this section to Article 45.048, Code of Criminal Procedure, applies only to a defendant serving a sentence for an offense committed on or after the effective date of this section. A defendant serving a sentence for an offense committed before the effective date of this section is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense is committed before the effective date of this section if any element of the offense occurs before that date.

SECTION _____. (a) Subsection (e), Article 45.049, Code of Criminal Procedure, is amended to read as follows:

(e) A defendant is considered to have discharged not less than \$50 ~~[\$100]~~ of fines or costs for each eight hours of community service performed under this article.

(b) This section takes effect January 1, 2004.

(c) The change in law made by this section to Article 45.049, Code of Criminal Procedure, applies only to a defendant serving a sentence for an offense committed on or after the effective date of this section. A defendant serving a sentence for an offense committed before the effective date of this section is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense is committed before the effective date of this section if any element of the offense occurs before that date.

SECTION _____. (a) Article 102.004, Code of Criminal Procedure, is amended by adding Subsection (c) to read as follows:

(c) In this article, "conviction" has the meaning assigned by Section 133.101, Local Government Code.

(b) This section takes effect January 1, 2004.

SECTION _____. (a) Article 102.011, Code of Criminal Procedure, is amended by adding Subsection (j) to read as follows:

(j) In this article, "conviction" has the meaning assigned by Section 133.101, Local Government Code.

(b) This section takes effect January 1, 2004.

SECTION _____. (a) Subsection (e), Article 102.014, Code of Criminal Procedure, is amended to read as follows:

(e) In this article, a person is considered to have been convicted in a case if the person would be considered to have been convicted under Section 133.101, Local Government Code[-

~~(1) a sentence is imposed;~~

~~(2) the defendant receives probation or deferred adjudication; or~~

~~(3) the court defers final disposition of the case].~~

(b) This section takes effect January 1, 2004.

SECTION _____. (a) Subsection (d), Section 51.702, Government Code, is amended to read as follows:

(d) The clerk shall deposit ~~[send]~~ the fees and costs collected under this section to be sent to the comptroller as provided by Subchapter B, Chapter 133, Local Government Code [at least as frequently as monthly]. The comptroller shall deposit the fees in the judicial fund.

(b) This section takes effect January 1, 2004.

SECTION _____. (a) Subsection (d), Section 51.703, Government Code, is amended to read as follows:

(d) The clerk shall deposit ~~[send]~~ the fees and costs collected under this section to be sent to the comptroller as provided by Subchapter B, Chapter 133, Local Government Code [at least as frequently as monthly]. The comptroller shall deposit the fees in the judicial fund.

(b) This section takes effect January 1, 2004.

SECTION _____. (a) Subsection (c), Section 51.704, Government Code, is amended to read as follows:

(c) The clerk shall deposit ~~[send]~~ the fees collected under this section to be sent to the comptroller as provided by Subchapter B, Chapter 133, Local Government Code [at least as frequently as monthly]. The comptroller shall deposit the fees in the judicial fund.

(b) This section takes effect January 1, 2004.

SECTION _____. (a) Section 51.941, Government Code, is amended to read as follows:

Sec. 51.941. ADDITIONAL FILING FEE IN APPELLATE COURTS FOR BASIC CIVIL LEGAL SERVICES FOR INDIGENTS. (a) In addition to other fees authorized or required by law, the clerk of the supreme court and courts of appeals ~~[each court]~~ shall collect a \$25 fee ~~[the following fees]~~ on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee[-

~~(1) supreme court and courts of appeals \$25;~~

[(2) district courts, for other than divorce and other family law matters	\$10;
[(3) district courts, divorce and other family law matters	\$5;
[(4) statutory and constitutional county courts	\$5;
[(5) justice of the peace courts	\$2].

(b) Court fees under this section [~~subchapter~~] shall be collected in the same manner as other fees, fines, or costs in the case.

(c) The clerk shall send the fees collected under this section [~~Subsection (a)(1)~~] to the comptroller not later than the last day of the month following [~~10th day after the end of~~] each calendar quarter.

(d) [~~The clerk shall remit the fees collected under Subsections (a)(2)-(5) at least as frequently as monthly to the county treasurer or the person who performs the duties of the county treasurer. The county treasurer or the person performing the duties of the county treasurer shall keep a record of the amount of money received under this subsection. The county treasurer or the person who performs the duties of the county treasurer shall remit the fees collected, minus an amount ordered retained by the county commissioners court as provided by Subsection (e), to the comptroller not later than the 10th day after the end of each quarter.~~

~~[(e) The commissioners court by order may require the county treasurer or the person who performs the duties of the county treasurer to deposit in the county's general revenue account five percent of the fees collected under Subsections (a)(2)-(5) to reimburse the county for the expense of collecting and remitting the fees collected under Subsections (a)(2)-(5).~~

~~[(f) The comptroller shall deposit the fees received under this section to the credit of the basic civil legal services account of the judicial fund for use in programs approved by the supreme court that provide basic civil legal services to the indigent.~~

(e) [~~(g)~~] In this section, "indigent"[-:

~~[(1) "Family law matters" has the meaning assigned "family law cases and proceedings" by Section 25.0002.~~

~~[(2) "Indigent" means an individual who earns not more than 125 percent of the income standard established by applicable federal poverty guidelines.~~

(b) This section takes effect January 1, 2004.

SECTION _____. (a) Subsection (b), Section 118.015, Local Government Code, is amended to read as follows:

(b) A county clerk who collects a fee under this section for a certified copy of a birth certificate shall deposit the fee into the county treasury. The state's portion of the fee shall be sent [~~deduct 20 cents of that fee to apply to the clerk's administrative costs and remit \$1.80 of that fee~~] to the comptroller as provided by Subchapter B, Chapter 133, for deposit in the work and family policies fund.

(b) This section takes effect January 1, 2004.

SECTION _____. (a) Subsection (c), Section 118.018, Local Government Code, is amended to read as follows:

(c) A county clerk who collects a fee under this section from a marriage license applicant shall deposit [~~remit~~] \$3 of that fee to be sent to the comptroller as provided by Subchapter B, Chapter 133, for deposit in the family trust fund established under Section 2.014, Family Code.

(b) This section takes effect January 1, 2004.

SECTION _____. (a) Subsection (a), Section 118.022, Local Government Code, is amended to read as follows:

(a) The county clerk shall deposit, as provided by Subchapter B, Chapter 133, [not later than the 10th day of each month, send to the comptroller of public accounts] \$12.50 of each fee collected [during the preceding month] for issuance of a marriage license or declaration of informal marriage to be sent to the comptroller and deposited as provided by Subsection (b).

(b) This section takes effect January 1, 2004.

SECTION _____. (a) Section 542.403, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) In this section, "conviction" has the meaning assigned by Section 133.101, Local Government Code.

(b) This section takes effect January 1, 2004.

SECTION _____. (a) Section 621.506, Transportation Code, is amended by amending Subsection (g) and adding Subsection (h) to read as follows:

(g) Except as provided by Subsection (h), a [A] governmental entity that collects a fine under this section for an offense involving a vehicle having a single axle weight, tandem axle weight, or gross weight that is more than 5,000 pounds heavier than the vehicle's allowable weight shall send an amount equal to 50 percent of the fine to the comptroller in the manner provided by Subchapter B, Chapter 133, Local Government Code.

(h) If [unless] the offense described by Subsection (g) occurred within 20 miles of an international border, [in which event] the entire amount of the fine shall be deposited for the purposes of road maintenance in:

- (1) the municipal treasury, if the fine was imposed by a municipal court; or
- (2) the county treasury, if the fine was imposed by a justice court.

(b) This section takes effect January 1, 2004.

SECTION _____. (a) Subsection (a), Section 706.006, Transportation Code, is amended to read as follows:

(a) A person who fails to appear for a complaint or citation for an offense described by Section 706.002(a) shall be required to pay an administrative fee of \$30 for each complaint or citation reported to the department under this chapter [violation for which the person failed to appear], unless the person is acquitted of the charges for which the person failed to appear. The person shall pay the fee when:

- (1) the court enters judgment on the underlying offense reported to the department;
- (2) the underlying offense is dismissed; or
- (3) bond or other security is posted to reinstate the charge for which the warrant was issued.

(b) This section takes effect January 1, 2004.

SECTION _____. (a) Subsections (a), (b), and (c), Section 706.007, Transportation Code, are amended to read as follows:

(a) An officer collecting a fee under Section 706.006 shall keep records and deposit the money as provided by Subchapter B, Chapter 133, Local Government Code[-

~~[(1) keep separate records of the money; and
 (2) deposit the money in the appropriate municipal or county treasury].~~

(b) The custodian of the municipal or county treasury may~~[-~~

~~[(+)] deposit each fee collected under Section 706.006 as provided by Subchapter B, Chapter 133, Local Government Code [in an interest bearing account; and~~

~~[(2) retain for the municipality or county the interest earned on money in the account].~~

(c) The custodian shall keep records of money received and disbursed under this section as provided by Subchapter B, Chapter 133, Local Government Code, and shall provide an annual report, in the form approved by the comptroller, of all money received and disbursed under this section to:

- (1) the comptroller;
- (2) the department; and
- (3) another entity as provided by interlocal contract.

(b) This section takes effect January 1, 2004.

SECTION _____. (a) Subchapter G, Chapter 51, Government Code, is amended by adding Section 51.607 to read as follows:

Sec. 51.607. IMPLEMENTATION OF NEW OR AMENDED COURT COSTS AND FEES. (a) Following each regular session of the legislature, the comptroller shall identify each law enacted by that legislature, other than a law disapproved by the governor, that imposes or changes the amount of a court cost or fee collected by the clerk of a district, county, statutory county, municipal, or justice court from a party to a civil case or a defendant in a criminal case, including a filing or docketing fee, jury fee, cost on conviction, or fee or charge for services or to cover the expenses of a public official or agency. This subsection does not apply to attorney's fees, civil or criminal fines or penalties, or amounts charged, paid, or collected on behalf of another party to a proceeding other than the state in a criminal case, including restitution or damages.

(b) The comptroller shall prepare a list of each court cost or fee covered by Subsection (a) to be imposed or changed and shall publish the list in the Texas Register not later than August 1 after the end of the regular session of the legislature at which the law imposing or changing the amount of the cost or fee was enacted. The comptroller shall include with the list a statement describing the operation of this section and stating the date the imposition or change in the amount of the court cost or fee will take effect under Subsection (c).

(c) Notwithstanding the effective date of the law imposing or changing the amount of a court cost or fee included on the list, the imposition or change in the amount of the court cost or fee does not take effect until the next January 1 after the law takes effect.

(d) This section does not apply to a court cost or fee if the law imposing or changing the amount of the cost or fee:

(1) expressly provides that this section does not apply to the imposition or change in the amount of the cost or fee; or

(2) takes effect before August 1 or after the next January 1 following the regular session of the legislature at which the law was enacted.

(b) Section 51.607, Government Code, as added by this section, does not apply to a law that takes effect before September 1, 2003.

(c) Section 51.607, Government Code, as added by this section, applies to a law enacted by the 78th Legislature, Regular Session, 2003, that takes effect on or after September 1, 2003, but only if this section takes effect before July 1, 2003.

(d) This section 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, this section takes effect September 1, 2003.

SECTION _____. The heading to Chapter 319, Government Code, is amended to read as follows:

CHAPTER 319. LEGISLATION REGARDING JUDICIAL
SYSTEM [IMPACT NOTES]

SECTION _____. Sections 319.001 through 319.004, Government Code, are designated as Subchapter A of Chapter 319 and the following heading is added to that subchapter:

SUBCHAPTER A. JUDICIAL SYSTEM IMPACT NOTES

SECTION _____. Chapter 319, Government Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. LEGISLATION RELATING TO COURT COSTS

Sec. 319.021. IMPACT STATEMENT ON LEGISLATION IMPOSING COURT COSTS ON CRIMINAL DEFENDANTS. (a) This section applies only to a new court cost or fee that is remitted to the comptroller.

(b) The Legislative Budget Board shall prepare an impact statement for each resolution proposing a constitutional amendment or bill that proposes imposing a new court cost or fee on a person charged with a criminal offense or increasing the amount of an existing court cost or fee imposed on a person charged with a criminal offense, including a court cost or fee imposed on conviction or other disposition or postponed disposition of the criminal charge.

(c) The impact statement must show the total amount of court costs and fees that persons will be required to pay under the bill or resolution when considered together with all other applicable laws.

(d) The state auditor shall provide the Legislative Budget Board with the initial data needed to develop a mechanism that will be used to produce the impact statements.

SECTION _____. (a) The following are repealed:

- (1) Article 56.55, Code of Criminal Procedure;
- (2) Article 56.56, Code of Criminal Procedure;
- (3) Article 56.57, Code of Criminal Procedure;
- (4) Article 56.59, Code of Criminal Procedure;
- (5) Subsections (f), (g), and (h), Article 102.011, Code of Criminal Procedure;
- (6) Article 102.019, Code of Criminal Procedure;
- (7) Article 102.075, Code of Criminal Procedure;
- (8) Section 51.701, Government Code;
- (9) Section 51.921, Government Code; and

(10) Subsections (b) through (h), Section 56.001, Government Code.

(b) This section takes effect January 1, 2004.

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

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 2424** adding a new SECTION ____ and renumbering all subsequent SECTIONS:

I. SECTION _____. Section 151.025, Tax Code, is amended by adding Subsection (d) to read as follows:

(d) If any nontaxable charges are combined with and not separately stated from taxable telecommunications service charges on the customer bill or invoice of a provider of telecommunications services, the combined charge is subject to tax unless the provider can identify the portion of the charges that are nontaxable through the provider's books and records kept in the regular course of business. If the nontaxable charges cannot reasonably be identified, the charges from the sale of both nontaxable services and taxable telecommunications services are attributable to taxable telecommunications services. The provider of telecommunications services has the burden of proving nontaxable charges.

II. Amend SECTION 68 by adding a new subsection (4) as follows:

(4) Section 151.025(c), Tax Code, is repealed.

III. Amend SECTION 71 by adding a new subsection (h) as follows:

(h) This Act takes effect July 1, 2003, 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 effect on that date, this Act takes effect October 1, 2003.

The change in law made by this Act does not affect taxes imposed before the effective date of this Act, and the law in effect before the effective date of this Act is continued in effect for purposes of the liability for and collection of those taxes.

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

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 2424** as follows:

(1) Add the appropriately numbered SECTIONS of the bill and renumber subsequent SECTIONS of the bill appropriately:

SECTION _____. Section 351.006, Tax Code, is amended by adding Subsection (g) to read as follows:

(g) The right to use or possess a room in a hotel is exempt from taxation under this chapter if the person required to collect the tax receives, in good faith from a guest, an exemption certificate stating qualification for an exemption provided in Subsection (c). The exemption must be supported by the documentation required under rules adopted by the comptroller and the municipality.

SECTION _____. Section 352.007, Tax Code, is amended by adding Subsection (g) to read as follows:

(g) The right to use or possess a room in a hotel is exempt from taxation under this chapter if the person required to collect the tax receives, in good faith from a guest, an exemption certificate stating qualification for an exemption provided in Subsection (c). The exemption must be supported by the documentation required under rules adopted by the comptroller and the county.

SECTION _____. Section 334.256(a), Tax Code, is amended to read as follows:

(a) Each bill or other receipt for a hotel charge subject to the tax imposed under this subchapter must contain a statement in a conspicuous location stating the applicable hotel occupancy tax rate collected by the hotel from the customer for the State of Texas (insert state rate of tax) and the tax rate and identity of each other taxing authority that has imposed a hotel occupancy tax for the room night (insert rate of tax). [~~insert name of taxing municipality or county) requires that an additional tax of _____ percent (insert rate of tax) be imposed on each hotel charge for the purpose of financing a venue project. In addition to the tax imposed to finance a venue project, the State of Texas requires that a tax of six percent be imposed on each hotel charge.~~]

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

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 2424** by adding the following appropriately numbered SECTIONS to the bill and renumbering other SECTIONS accordingly:

SECTION _____. Section 351.101(a), Tax Code, is amended to read as follows:

(a) Revenue from the municipal hotel occupancy tax may be used only to promote tourism and the convention and hotel industry, and that use is limited to the following:

(1) the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of convention center facilities or visitor information centers, or both;

(2) the furnishing of facilities, personnel, and materials for the registration of convention delegates or registrants;

(3) advertising and conducting solicitations and promotional programs to attract tourists and convention delegates or registrants to the municipality or its vicinity;

(4) the encouragement, promotion, improvement, and application of the arts, including instrumental and vocal music, dance, drama, folk art, creative writing, architecture, design and allied fields, painting, sculpture, photography, graphic and craft arts, motion pictures, radio, television, tape and sound recording, and other arts related to the presentation, performance, execution, and exhibition of these major art forms;

(5) historical restoration and preservation projects or activities or advertising and conducting solicitations and promotional programs to encourage tourists and convention delegates to visit preserved historic sites or museums:

(A) at or in the immediate vicinity of convention center facilities or visitor information centers; or

(B) located elsewhere in the municipality or its vicinity that would be frequented by tourists and convention delegates; and

(6) for a municipality located in a county with population of 290,000 [~~65,000~~] or less, expenses, including promotion expenses, directly related to a sporting event in which the majority of participants are tourists who substantially increase economic activity at hotels and motels within the municipality or its vicinity.

SECTION _____. Section 351.102, Tax Code, is amended to read as follows:

(c) A municipality to which subsection (b) applies is entitled to receive all funds that an owner of a project may receive under Section 151.429(h), Tax Code.

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

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSHB 2424** by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS accordingly:

SECTION _____. Amend Section 32.03, Tax Code, by adding Subsection (j) as follows:

(j) For purposes of this section, except as provided in Section 32.015(a), Tax Code, unpaid taxes due a taxing unit include:

(1) all unpaid taxes and any penalty and interest due that taxing unit for a tax year preceding the current tax year; and

(2) for a manufactured home that was located in the taxing unit on January 1 of the current tax year:

(A) taxes due for the current tax year; or

(B) if taxes for the current tax year have not been levied by the taxing unit, an estimated amount of taxes computed by multiplying the taxable value of the manufactured home, according to the most recent certified appraisal roll for the taxing unit, by the taxing unit's adopted tax rate for the preceding tax year.

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

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 7

Amend **CSHB 2424** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 2303.406, Government Code, is amended by adding Subsection (e) to read as follows:

(e) The department may designate multiple concurrent enterprise projects in the same enterprise zone and may designate the same qualified business as more than one enterprise project.

SECTION _____. The change in law made by this Act to Chapter 2303, Government Code, applies only to:

(1) an application for enterprise project designation submitted on or after September 1, 2003; or

(2) an application for enterprise project designation approved by the Texas Department of Economic Development or its successor on or after September 1, 2003, for which the application for enterprise project designation was submitted in calendar year 2002.

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

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 8

Amend **CSHB 2424** as follows:

(1) Insert new Section 21 and renumber the subsequent sections accordingly:

SECTION 21. Section 151.319(c), Tax Code, is amended to read as follows:

(c) ~~[A transaction involving t]~~ The sale of a handbill, circular, flyer, advertising supplement, or similar item that is printed to the special order of a customer and tangible personal property that will become an ingredient or component part of such item are [is] exempted from the taxes imposed by this chapter if the item is printed for the exclusive purpose of being distributed as a part of a newspaper, is actually distributed as a part of the newspaper, and is delivered to the person who is responsible for the distribution of the newspaper in which the item is distributed and not to the customer.

(2) Amend Section 68 by adding subsection (12) and renumbering the subsequent subsections accordingly:

(12) Section 151.319(c), Tax Code;

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

Senator Brimer offered the following amendment to the bill:

Floor Amendment No. 9

Amend **CSHB 2424** (Senate committee printing) as follows:

(1) After SECTION 54 of the bill (page 18, between lines 32 and 33), insert a new SECTION 54A to read as follows:

SECTION 54A. Subchapter Q, Chapter 171, Tax Code, is amended by adding Section 171.8015 to read as follows:

Sec. 171.8015. TANGIBLE PERSONAL PROPERTY FIRST PLACED IN SERVICE IN AN ENTERPRISE ZONE. For purposes of determining whether an investment is a "qualified capital investment" under Section 171.801, "tangible personal property first placed in service in an enterprise zone" includes tangible personal property:

(1) purchased by a qualified business for placement in an incomplete improvement that is under active construction or other physical preparation;

(2) identified by a purchase order, invoice, billing, sales slip, or contract;
and

(3) physically present at the enterprise zone and in use by the qualified business not later than September 30, 2005.

(2) In SECTION 70(f) of the bill (page 21, line 49), strike "54, 55," and substitute "54, 54A, 55,".

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

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

CSHB 2424 as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2424 ON THIRD READING**

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

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 3442 ON SECOND READING**

Senator Averitt moved to suspend the regular order of business to take up for consideration **CSHB 3442** at this time on its second reading:

CSHB 3442, Relating to certain expenditures and charges of certain governmental entities.

The motion prevailed by a viva voce vote.

The bill was read second time.

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3442** (Senate committee printing) as follows:

(1) Strike Section 6 of the bill (page 2, lines 54-69, through page 3, line 18) and renumber subsequent sections accordingly.

(2) Strike the following subsections of Section 7 of the bill and reletter the remaining subsections of that section accordingly:

(A) Subsection (b) (page 3, lines 27-62);

(B) Subsection (c) (page 3, lines 63-68); and

(C) Subsection (d) (page 3, line 69, through page 4, line 6).

(3) In Section 14 of the bill, strike Subsection (f) of that section (page 12, lines 29-35) and substitute:

(f) Section 203.016, Agriculture Code, is amended to read as follows:

Sec. 203.016. CONSULTATION. The board shall consult with:

(1) the department in regard to the effects of the brush control program on agriculture;

(2) the Texas Water Development Board in regard to the effects of the brush control program on water quantity; and

(3) the Parks and Wildlife Department in regard to the effects of the brush control program on fish and wildlife.

(4) In Section 14 of the bill, strike the introductory language to Subsection (l) of that section (page 13, lines 43-45) and substitute:

(l) Section 203.154, Agriculture Code, is amended by amending Subsections (a) and (c) and by adding Subsections (d) and (e) to read as follows:

(5) In Section 14 of the bill, in Subsection (l) of that section, following proposed Subsection (d), Section 203.154, Agriculture Code (page 13, between lines 61 and 62), insert:

(e) Notwithstanding any other provision of this section, 100 percent of the total costs of a single project on public lands may be made available as the state's share in cost sharing.

(6) In Section 14 of the bill, in Subsection (m) of that section, in amended Subdivision (8), Section 203.157, Agriculture Code (page 14, line 17), between "district," and "the Texas" insert "the department,".

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

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 3442** by adding a new section to read as follows and renumbering the following sections as appropriate:

SECTION _____. Sections 81.116(b) and (d), Natural Resources Code, are amended to read as follows:

(b) The fee is in addition to, and independent of any liability for, the taxes imposed under Section 81.111 of this code and Chapter 202, Tax Code.

(d) The comptroller shall suspend collection of the fee in the manner provided by Section 91.111 of this code. The exemptions and reductions set out in Sections 202.052, 202.054, 202.056, 202.057, and 202.059, Tax Code, do not affect the fee imposed by this section.

Amend **CSHB 3442** by adding a new section to read as follows and renumbering the following sections as appropriate:

SECTION _____. Sections 81.117(b) and (d), Natural Resources Code, are amended to read as follows:

(b) The fee is in addition to, and independent of any liability for, the tax imposed under Section 201.052, Tax Code.

(d) The comptroller shall suspend collection of the fee in the manner provided by Section 91.111 of this code. The exemptions and reductions set out in Sections 201.053, 201.057, and 201.058, Tax Code, do not affect the fee imposed by this section.

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

Senator Madla offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 3442** (Senate committee printing), on page ____, line ____, by inserting the following appropriately numbered SECTION and renumber subsequent SECTIONS accordingly:

SECTION _____. (a) In this section, "district" shall mean the Hudspeth County Underground Water Conservation District No. 1.

(b) In order to reduce property taxes for the residents of Hudspeth County, Texas, and to reduce the expenditures of the district by excluding territory from the district that overlies aquifers not regulated by the district, the boundaries of the district are modified to include only the territory contained in the following described area:

BEGINNING at the northwest corner of Section 3, Block A, University, Hudspeth County, Texas, and being a point in the state line between Texas and New Mexico, for the northwest corner of the survey;

THENCE south with the west boundary line of Section 3, Block A, University, to its southwest corner;

THENCE east with the south boundary line of Section 3, Block A, University, to its southeast corner, which point is also the northeast corner of Section 10, Block A, University;

THENCE south with the west boundary line of Section 11, Block A, University, to its southwest corner;

THENCE east with the south boundary line of Section 11, Block A, University, and continuing east with the south boundary line of Section 12, Block A, University, to the southeast corner of Section 12, Block A, University;

THENCE south with the east boundary of Section 13, Block A, University, to the southeast corner of Section 13, Block A, University, which point is also the northeast corner of Section 24, Block A, University;

THENCE east with the north boundary line of Section 19, Block B, University, and continuing east with the north boundary line of Section 20, Block B, University, to the northeast corner of Section 20, Block B, University;

THENCE south with the east boundary line of Section 20, Block B, University, to the southeast corner of Section 20, Block B, University, which point is also the northeast corner of Section 29, Block B, University;

THENCE east with the north boundary line of Section 28, Block B, University, to the northeast corner of Section 28, Block B, University, which point is also the southeast corner of Section 21, Block B, University;

THENCE south with east boundary line of Section 28, Block B, University, to the southeast corner of Section 28, Block B, University, which point is also the northeast corner of Section 33, Block B, University;

THENCE east with the north boundary line of Section 34, Block B, University, and continuing east with the north boundary line of Section 35, Block B, University, to the northeast corner of Section 35, Block B, University;

THENCE south with east boundary line of Section 35, Block B, University, to its southeast corner, which point is also the northeast corner of Section 38, Block B, University;

THENCE east with the north boundary line of Section 37, Block B, University, and continuing east with the north boundary line of Section 48, Block C, University, to its northeast corner, which point is also the northwest corner of Section 47, Block C, University;

THENCE south with the east boundary line of Section 48, Block C, University, to its southeast corner;

THENCE east with the north boundary line of Section 50, Block C, University, to its northeast corner;

THENCE south with the east boundary line of Section 50, Block C, University, to its southeast corner;

THENCE east with the north boundary line of Section 4, Block D, University, and continuing east along the north boundary line of Section 3, Block D, University, to the northeast corner of Section 3;

THENCE south with the east boundary line of Section 3, Block D, University, to its southeast corner;

THENCE east with the north boundary line of Section 11, Block D, University, and continuing east along the north boundary line of Section 12, Block D, University, to its northeast corner;

THENCE south with the east boundary line of Section 12, Block D, University, to its southeast corner;

THENCE east with the north boundary line of Section 18, Block 72, Township 2, T & P, to its northeast corner;

THENCE south with the east boundary line of Section 18, Block 72, Township 2, T & P, to its southeast corner;

THENCE east with the north boundary line of Section 20, Block 72, Township 2, T & P, and continuing east along the north boundary line of Section 21, Block 72, Township 2, T & P, to the northeast corner of Section 21;

THENCE south with the east boundary line of Section 21, Block 72, Township 2, T & P, to its southeast corner;

THENCE east with the north boundary line of Section 27, Block 72, Township 2, T & P, and continuing east with the north boundary lines of Sections 26 and 25, Block 72, Township 2, T & P, and Section 30, Block 71, Township 2, T & P, to the northeast corner of Section 30;

THENCE south with the east boundary line of Section 30, Block 71, Township 2, T & P, to its southeast corner;

THENCE east with the north boundary line of Section 32, Block 71, Township 2, T & P, and continuing east with the north boundary line of Section 33, Block 71, Township 2, T & P, to the northeast corner of Section 33;

THENCE south with the east boundary line of Section 33, Block 71, Township 2, T & P, to its southeast corner;

THENCE east with the north boundary line of Section 39, Block 71, Township 2, T & P, to the northeast corner of Section 39;

THENCE south with the east boundary line of Section 39, Block 71, Township 2, T & P, to its southeast corner;

THENCE east with the north boundary line of Section 47, Block 71, Township 2, T & P, to the northeast corner of Section 47;

THENCE south with the east boundary line of Section 47, Block 71, Township 2, T & P, to the southeast corner of Section 47;

THENCE east with the south boundary line of Section 48, Block 71, Township 2, T & P, and continuing east with the south boundary line of Section 43, Block 70, Township 2, T & P, to the southeast corner of Section 43;

THENCE south with the east boundary lines of Section 7, Block JKL, P.S.L., and Section 6, Block K, University, to the southeast corner of Section 6;

THENCE east with the north boundary line of Section 8, Block K, University, and continuing east with the north boundary line of Section 9, Block K, University, to the northeast corner of Section 9;

THENCE south with the east boundary line of Section 9, Block K, University, to its southeast corner;

THENCE east with the north boundary line of Section 15, Block K, University, to its northeast corner;

THENCE south with the east boundary line of Section 15, Block K, University, and continuing south with the east boundary line of Section 22, Block K, University, to the southeast corner of Section 22;

THENCE east with the north boundary line of Section 26, Block K, University, to its northeast corner;

THENCE south with the east boundary line of Section 26, Block K, University, to its southeast corner;

THENCE east with the north boundary line of Section 36, Block K, University, to its northeast corner;

THENCE south with the east boundary line of Section 36, Block K, University, to its southeast corner;

THENCE east with the north boundary line of Section 42, Block L, University, to its northeast corner;

THENCE south with the east boundary line of Section 42, Block L, University, and continuing south with the east boundary line of Section 43, Block L, University, to the southeast corner of Section 43;

THENCE east with the north boundary line of Section 5, Block N, University, and continuing east with the north boundary line of Section 4, Block N, University, to the northeast corner of Section 4;

THENCE south with the east boundary line of Section 4, Block N, University, to its southeast corner;

THENCE east with the north boundary line of Section 22, Block N, University, to its northeast corner;

THENCE south with the east boundary line of Section 22, Block N, University, to its southeast corner;

THENCE east with the north boundary line of Section 26, Block N, University, and continuing east with the north boundary line of Section 25, Block N, University, to the northeast corner of Section 25;

THENCE south with the east boundary line of Section 25, Block N, University, to its southeast corner;

THENCE east with the north boundary line of Section 19, Block 68, Township 4, T & P, to its northeast corner;

THENCE south with the east boundary line of Section 19, Block 68, Township 4, T & P, to its southeast corner;

THENCE east with the north boundary line of Section 29, Block 68, Township 4, T & P, and continuing east with the north boundary line of Section 28, Block 68, Township 4, T & P, to the northeast corner of Section 28;

THENCE south with the east boundary line of Section 28, Block 68, Township 4, T & P, to its southeast corner;

THENCE east with the south boundary line of Section 27, Block 68, Township 4, T & P, and continuing east with the south boundary lines of Sections 26 and 25, Block 68, Township 4, T & P, to the intersection of the south boundary line of Section 25, Block 68, Township 4, T & P, with the east boundary line of Section 3, Block 30, P.S.L.;

THENCE south with the east boundary line of Section 3, Block 30, P.S.L., to its southeast corner;

THENCE east with the south boundary line of Section 2, Block 30, P.S.L., and continuing east with the south boundary lines of Section 1, Block 30, P.S.L., and Sections 5, 4, 3, and 2, Block 31, P.S.L., to the southeast corner of Section 2;

THENCE north with the east boundary line of Section 2, Block 31, P.S.L., and continuing north with the east boundary lines of Sections 26, 23, 14, 11, 2, Block 67, Township 4, T & P, and Sections 46, 37, 34, 25, 22, 13, 10, 5, Block 67, Township 3, T & P;

THENCE continuing north with the east boundary lines of Sections 43, 34, 33, 24, 23, 14, 11, 2, Block 67, Township 2, T & P, and Sections 47, 38, 35, 26, 23, 14, 11, 2, Block 67, Township 1, T & P, to the northeast corner of Section 2, being a point in the Texas - New Mexico State line forming the north boundary line of Hudspeth County, Texas;

THENCE west with the Texas - New Mexico State Line to the Point of Beginning.

(c) The legislature finds that the boundaries and field notes of the district under Subsection (b) form a closure. If a mistake is made in the field notes or in copying the field notes in the legislative process, the mistake does not affect in any way:

- (1) the organization, existence, or validity of the district;
- (2) the right of the district to impose taxes; or
- (3) the legality or operation of the district or the board.

(d) As a result of the change to the boundaries of the district made by Subsection (b) or if otherwise required by law, the board may:

- (1) adjust the precinct boundaries for the election of directors as necessary to provide for proper representation of the residents of the district; and
- (2) call and hold election under Chapter 36, Water Code, or other law to ensure the lawful representation and taxation of the residents of the district.

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

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 3442** by adding the following appropriately numbered SECTION and renumbering SECTIONS of the bill appropriately:

SECTION ____ . WATER POLLUTION AND CONSERVATION PROGRAMS ADMINISTERED BY THE TEXAS WATER DEVELOPMENT BOARD. (a) Section 15.602, Water Code, is amended by adding Subdivision (5-a) to read as follows:

(5-a) "Eligible lending institution" means a financial institution that makes commercial loans, is either a depository of state funds or an institution of the Farm Credit System headquartered in this state, agrees to participate in a linked deposit

program established under Section 15.611 and to provide collateral equal to the amount of linked deposits placed with it, and meets any other requirements established by board rule.

(b) Section 15.603, Water Code, is amended by adding Subsection (i) to read as follows:

(i) In addition to authorized purposes under Subsection (a), the revolving fund is held by the board to provide linked deposits to eligible financial institutions for loans to persons for nonpoint source pollution control projects.

(c) Subsection (a), Section 15.604, Water Code, is amended to read as follows:

(a) The board may use the revolving fund for financial assistance only as provided by the federal act:

(1) to make loans, on the conditions that:

(A) those loans are made at or below market interest rates, including interest-free loans, at terms not to exceed 20 years;

(B) principal and interest payments will begin not later than one year after completion of any treatment works and all loans will be fully amortized not later than 20 years after completion of the treatment works;

(C) the recipient of a loan will establish a dedicated source of revenue for repayment of loans; and

(D) the revolving fund will be credited with all payments of principal of and interest on all loans;

(2) to buy or refinance the debt obligation of political subdivisions at or below market rates if the debt obligations were incurred after March 7, 1985;

(3) to guarantee or purchase insurance for political subdivisions if the guarantee or insurance would improve access to market credit or reduce interest rates;

(4) as a source of revenue or security for the payment of principal and interest on bonds issued by the state if the proceeds of the sale of those bonds will be deposited in the revolving fund;

(5) to provide loan guarantees to similar revolving funds established by municipalities or intermunicipal agencies;

(6) to earn interest on revolving fund accounts;

(7) for the reasonable costs of administering the revolving fund and conducting activities provided for by Title VI of the federal act, except that those amounts may not exceed the amount authorized under Title VI of the federal act;

(8) to provide financial assistance to persons for a nonpoint source pollution control project under Section 319 of the federal act or for an estuary management project under Section 320 of the federal act; ~~and~~

(9) for other purposes as provided by the federal act; and

(10) to provide linked deposits to eligible lending institutions for loans to persons for nonpoint source pollution control projects.

(d) Subchapter J, Chapter 15, Water Code, is amended by adding Sections 15.610 through 15.618 to read as follows:

Sec. 15.610. LINKED DEPOSIT. A linked deposit is a deposit governed by a written deposit agreement between the board and an eligible lending institution that provides that:

(1) the eligible lending institution pay interest on the deposit at a rate determined by the board;

(2) the state not withdraw any part of the deposit before the expiration of a period set by a written advance notice of the intention to withdraw; and

(3) the eligible lending institution agree to lend the value of the deposit to a person at a maximum rate that is the rate paid by the eligible lending institution to the board plus a maximum of four percent.

Sec. 15.611. LINKED DEPOSIT PROGRAM. (a) The board by rule may establish a nonpoint source pollution control linked deposit program in accordance with this subchapter.

(b) An eligible lending institution may participate in the program established under this section as provided by this subchapter.

Sec. 15.612. APPLICATION BY ELIGIBLE LENDING INSTITUTIONS TO PARTICIPATE IN LINKED DEPOSIT PROGRAM. To participate in the nonpoint source pollution control linked deposit program, an eligible lending institution must:

(1) solicit loan applications, which must contain a description of a proposed nonpoint source pollution control project;

(2) review applications to determine if applicants are eligible and creditworthy; and

(3) submit the applications of eligible and creditworthy applicants to the executive administrator with a certification:

(A) of the interest rate applicable to each applicant by the eligible lending institution; and

(B) of the proposed project by the appropriate person as required by Section 15.613.

Sec. 15.613. CERTIFICATION OF PROJECT. (a) An eligible lending institution must obtain from a director of a soil and water conservation district certification of an agricultural or silvicultural nonpoint source pollution control project proposed for the district. The certification must state that:

(1) the applicant of the proposed project has a water quality management plan certified by the State Soil and Water Conservation Board; and

(2) the project furthers or implements the plan.

(b) An eligible lending institution must obtain from the executive director certification of a proposed nonpoint source pollution control project that is not an agricultural or silvicultural nonpoint source pollution control project. The certification must state that the applicant's proposed project implements the state's nonpoint source pollution management plan.

Sec. 15.614. APPROVAL OR REJECTION OF APPLICATION. The board may approve or reject an application of an eligible lending institution to participate in the program. The board may delegate its authority to approve or reject an application to the executive administrator.

Sec. 15.615. DEPOSIT AGREEMENT. If the board approves an application of an eligible lending institution, the board and the eligible lending institution shall enter into a written deposit agreement. The agreement shall contain the conditions on which the linked deposit is made. On execution of the agreement, the board shall place a

linked deposit from the revolving fund with the eligible lending institution in accordance with the agreement. A delay in payment or a default on a loan by an applicant does not affect the validity of the deposit agreement.

Sec. 15.616. COMPLIANCE. (a) On accepting a linked deposit, an eligible lending institution must lend money to an approved applicant in accordance with the deposit agreement and this subchapter. The eligible lending institution shall forward a compliance report to the board in accordance with board rules. The board shall adopt rules regarding the compliance report.

(b) The board shall monitor compliance with this subchapter and inform the comptroller of noncompliance on the part of an eligible lending institution.

Sec. 15.617. STATE LIABILITY PROHIBITED. The state is not liable to an eligible lending institution for payment of the principal, interest, or any late charges on a loan made to an approved applicant. A linked deposit is not an extension of the state's credit within the meaning of any state constitutional prohibition.

Sec. 15.618. LIMITATIONS ON PROGRAM. (a) The maximum amount of a loan under the linked deposit program is \$250,000.

(b) The board may withdraw linked deposits from an eligible lending institution if the institution ceases to be either a state depository or a Farm Credit System institution headquartered in this state.

(e) Subdivisions (3) through (6), Section 17.871, Water Code, are amended to read as follows:

(3) "Eligible lending institution" means a financial institution that makes commercial loans, is either a depository of state funds or an institution of the Farm Credit System headquartered in this state, agrees to participate in a linked deposit program established under Section 17.905 and to provide collateral equal to the amount of linked deposits placed with it, and meets any other requirements established by board rule ["Conservation loan" means a loan from the board to a borrower district or from a lender district to an individual borrower].

(4) "Fund" means the agricultural water conservation fund authorized by Section 50-d, Article III, of the Texas Constitution.

(5) "Person" means an individual, corporation, partnership, association, or other legal entity that is not a political subdivision ["Individual borrower" means a person who receives or is eligible to receive a conservation loan from a lender district].

(6) "Political subdivision" includes a district or authority created under Section 52, Article III, or Section 59, Article XVI, of the Texas Constitution, a municipality, a county, an institution of higher education as defined by Section 61.003, Education Code, any interstate compact commission to which the state is a party, and any nonprofit water supply corporation created and operating under Chapter 67 ["Lender district" means a political subdivision, including a soil and water conservation district under Chapter 201, Agriculture Code, a groundwater conservation district created under Article XVI, Section 59, of the Texas Constitution, or a district or authority created under Article III, Section 52(b)(1), or Article XVI, Section 59, of the Texas Constitution authorized to supply water for irrigation purposes, that is eligible to receive or that receives a loan from the board for the purpose of making conservation loans to individual borrowers].

(f) Subsections (c) and (d), Section 17.879, Water Code, are amended to read as follows:

(c) By rule or in the resolution or order authorizing issuance of bonds or other resolution or order of the board, the board may establish an interest and sinking fund and may establish accounts in the funds, including an interest and sinking account, and may transfer money among the funds and accounts ~~[fund]~~.

(d) The board may invest and reinvest money in the fund, the interest and sinking fund, and any account therein in any obligations or securities as provided by bond resolutions, ~~[and]~~ orders of the board, and Section 404.024, Government Code.

(g) Subsection (a), Section 17.880, Water Code, is amended to read as follows:

(a) Loans, bonds of political subdivisions ~~[borrower districts or lender districts]~~, and other obligations owned by the state and deposited in the fund or in the interest and sinking fund are considered to be securities under this subchapter.

(h) Subsection (b), Section 17.881, Water Code, is amended to read as follows:

(b) The board shall sell the loans or bonds of political subdivisions ~~[borrower districts or lender districts]~~ at the price and under the terms that it determines to be reasonable.

(i) Section 17.883, Water Code, is amended to read as follows:

Sec. 17.883. BOND REVIEW BOARD. Bonds may not be issued under this subchapter unless the issuance of the bonds has been reviewed and approved by the bond review board. Prior to issuance of bonds, the board shall estimate demand for ~~[agricultural water]~~ conservation programs or projects ~~[loans]~~ based on a survey of ~~[districts]~~ eligible participants ~~[to participate]~~ in the program. A summary of this information shall be furnished to the bond review board.

(j) Section 17.894, Water Code, is amended to read as follows:

Sec. 17.894. BOND ENHANCEMENT AGREEMENTS; PAYMENT OF EXPENSES. (a) The board at any time and from time to time may enter into one or more bond enhancement agreements that the board determines to be necessary or appropriate to place the obligation of the board, as represented by the bonds, in whole or in part, on the interest rate, currency, cash flow, or other basis desired by the board. A bond enhancement agreement is an agreement for professional services and shall contain the terms and conditions and be for the period that the board approves.

(b) The fees and expenses of the board in connection with the issuance of the bonds and the providing of financial assistance to political subdivisions may be paid from money in the fund, provided that any payments due from the board under a bond enhancement agreement, other than fees and expenses, that relate to the payment of debt service on the bonds constitute payments of principal of and interest on the bonds.

(c) Bond enhancement agreements may include, on terms and conditions approved by the board, interest rate swap agreements; currency swap agreements; forward payment conversion agreements; agreements providing for payments based on levels of or changes in interest rates or currency exchange rates; agreements to exchange cash flows or a series of payments; agreements, including options, puts, or calls, to hedge payment, currency, rate, spread, or other exposure; or other agreements that further enhance the marketability, security, or creditworthiness of water financial

~~assistance bonds [USE OF FUND. (a) The board may use money in the fund to make conservation loans directly to borrower districts, to make loans to lender districts, and to pay the cost of bond issuance.~~

~~[(b) The board may use money in the fund:~~

~~[(1) to make loans to political subdivisions other than lender districts for agricultural water conservation projects;~~

~~[(2) to make grants to political subdivisions for agricultural water conservation projects as provided by legislative appropriation; or~~

~~[(3) to make grants to a state agency for the funding of any agricultural water conservation program of that agency, including a program in which the state agency provides funding to a political subdivision or a person for agricultural water conservation, as provided by legislative appropriation].~~

(k) Section 17.895, Water Code, is amended to read as follows:

Sec. 17.895. SOURCES OF ASSETS. The fund is composed of:

(1) money and assets, including bond proceeds, attributable to the bonds;

(2) investment income earned on money on deposit in the fund and depository interest earned on money on deposit in the state treasury;

(3) money appropriated by the legislature;

(4) repayments of principal and interest on loans made under this subchapter;

(5) administrative fees charged by the board under the bond program; and

(6) any other funds, regardless of their source, that the board directs be deposited to the credit of the fund [CONSERVATION LOANS. (a) This section applies only to a conservation loan from a lender district that is:

~~[(1) a soil and water conservation district under Chapter 201, Agriculture Code;~~

~~[(2) a groundwater conservation district created under Section 59, Article XVI, Texas Constitution; or~~

~~[(3) a district or authority created under Section 52(b)(1), Article III, or Section 59, Article XVI, Texas Constitution.~~

~~[(b) The board or a lender district may make conservation loans for capital equipment or materials, labor, preparation costs, and installation costs:~~

~~[(1) to improve water use efficiency of water delivery and application on existing irrigation systems;~~

~~[(2) for preparing irrigated land to be converted to dryland conditions; and~~

~~[(3) for preparing dryland for more efficient use of natural precipitation.~~

~~[(c) Conservation loans for the purposes listed in Subsection (b) may be made by lender districts to individual borrowers for use on private property or by the board to borrower districts.~~

~~[(d) The board may make conservation loans to borrower districts for the cost of purchasing and installing devices, on public or private property, designed to indicate the amount of water withdrawn for irrigation purposes.~~

~~[(e) For purposes of this section, the board or lender districts may seek the advice of the Department of Agriculture regarding the feasibility of a project for which a conservation loan is sought].~~

(l) Section 17.896, Water Code, is amended to read as follows:

Sec. 17.896. REPAYMENT PROCEEDS. The board shall designate a transfer of repayment of principal and interest on a loan made under this subchapter to the fund, the interest and sinking fund, or any account in the funds [~~INTEREST RATES AND FEES.~~ (a) The board shall establish the rate of interest it charges for loans to lender districts or for conservation loans to borrower districts.

~~[(b) A lender district may charge individual borrowers an interest rate not to exceed the interest rate the lender district is charged by the board, plus one percent for administrative expenses.~~

~~[(c) A lender district may charge individual borrowers a one time application fee in an amount determined by the board to cover costs of processing loan applications].~~

(m) Section 17.897, Water Code, is amended to read as follows:

Sec. 17.897. CONSERVATION PROGRAM. (a) A conservation program is:

(1) an agricultural water conservation technical assistance program, including a program for an on-farm soil and water conservation plan developed jointly by a landowner, an operator, and a local soil and water conservation district as provided by Subchapter H, Chapter 201, Agriculture Code;

(2) a research, demonstration, technology transfer, or educational program relating to agricultural water use and conservation;

(3) a precipitation enhancement program in an area of the state where the program, in the board's judgment, would be most effective; and

(4) any other agricultural water conservation program defined by board rule.

(b) The costs of a conservation program eligible for financial assistance under Section 17.899 are the costs of the capital equipment, materials, labor, preparation, installation, or administration directly associated with implementing and completing the program [APPLICATION. A lender district that desires to obtain loans or a borrower district that desires to obtain conservation loans under this subchapter shall file with the executive administrator an application in the manner and in the form provided by board rules].

(n) Section 17.898, Water Code, is amended to read as follows:

Sec. 17.898. CONSERVATION PROJECT. (a) A conservation project is a project that:

(1) improves water use efficiency of water delivery and application on existing irrigation systems;

(2) prepares irrigated land for conversion to dryland conditions;

(3) prepares dryland for more efficient use of natural precipitation;

(4) purchases and installs on public or private property devices designed to indicate the amount of water withdrawn for irrigation purposes;

(5) prepares and maintains land to be used for brush control activities in areas of the state where those activities in the board's judgment would be most effective, including activities conducted under Chapter 203, Agriculture Code; or

(6) implements any other agricultural water conservation project defined by board rule.

(b) The costs of a conservation project eligible for financial assistance under Section 17.899 are the costs of the capital equipment, materials, labor, preparation, installation, or administration directly associated with implementing and completing the project [CONSIDERATIONS IN PASSING ON AN APPLICATION. (a) In

~~passing on an application from a lender district, the board shall consider the lender district's ability to manage a loan program, ability to repay any loan defaults, and overall conservation program.~~

~~[(b) In passing on an application from a borrower district, the board shall consider the ability of the borrower district to repay the conservation loan and whether the conservation loan will further water conservation].~~

(o) Section 17.899, Water Code, is amended to read as follows:

Sec. 17.899. ELIGIBLE FUND USES. (a) Money in the fund, excluding money in the interest and sinking fund, may be used by the board to:

(1) provide a grant to a state agency to fund a conservation program or conservation project, including a conservation program that provides funding to a political subdivision or person for a conservation project;

(2) provide a grant or loan to a political subdivision for a conservation program or conservation project;

(3) provide a linked deposit to an eligible financial institution for a loan to a person for a conservation project;

(4) pay for a board conservation program;

(5) make a transfer to the interest and sinking fund;

(6) pay the costs of a bond issuance; and

(7) pay for a board expense in administering the agricultural water conservation program under this subchapter.

(b) Money in the interest and sinking fund may be used for the payment of bonds or, to the extent there are funds in excess of bond payment requirements, for transfers to the fund, or any other account in the funds [APPROVAL OF APPLICATIONS. (a) The board may approve an application if, after considering the factors in Section 17.898 and other relevant factors, the board finds that:

~~[(1) the public interest would be served in granting the application;~~

~~[(2) a lender district has the ability to make conservation loans, manage a conservation loan program, and repay the loan to the board;~~

~~[(3) a borrower district has the ability to repay the conservation loan; and~~

~~[(4) granting the application will further water conservation in the state.~~

~~[(b) The board by rule may delegate to the executive administrator the authority to approve an application based on the considerations in Section 17.898 and on the findings in Subsection (a)].~~

(p) Section 17.900, Water Code, is amended to read as follows:

Sec. 17.900. GRANT TO STATE AGENCY. (a) A state agency seeking a grant for a conservation program or conservation project must file an application with the board.

(b) In reviewing an application for a grant, the board shall consider:

(1) the commitment of the state agency to water conservation; and

(2) the benefits that will be gained by making the grant.

(c) To approve the grant, the board must find that:

(1) the grant funds will supplement rather than replace money of the state agency;

(2) the public interest is served by providing the grant; and

(3) the grant will further water conservation in the state.

(d) If a state agency is applying for funds that have been provided by legislative appropriation for that state agency, the board shall review the application according to the terms of the legislative appropriation. To approve the grant, the board must make the determination required by the legislative language.

(e) The board may make money available to a state agency in any manner that it considers feasible, including a grant agreement with the state agency [METHODS OF MAKING LOANS AND ENFORCING OBLIGATIONS. (a) The board may make financial assistance available to lender or borrower districts in any manner that it considers economically feasible, including purchase of bonds or securities of the lender or borrower district, or by entering into a contract with the lender or borrower district. The board shall not purchase bonds or securities that have not been approved by the attorney general and registered by the comptroller.

[(b) In the event of default in payment of the principal of or interest on bonds or securities purchased by the board or any other default as defined in the proceedings or indentures authorizing the issuance of the bonds or the default of any of the terms of a contract, the attorney general shall institute legal proceedings by mandamus or other legal remedies to compel the lender or borrower district or its officers, agents, and employees to cure the default by performing those duties which they are legally obligated to perform. These proceedings shall be brought and venue shall be in a district court in Travis County.

[(c) This section is cumulative of any other rights or remedies to which the board may be entitled].

(q) Section 17.901, Water Code, is amended to read as follows:

Sec. 17.901. GRANT OR LOAN TO POLITICAL SUBDIVISION. The board may make a grant or loan to a political subdivision for a conservation program or conservation project. A political subdivision seeking a grant or loan must file an application with the board [DEFAULT AND FORECLOSURE BY LENDER DISTRICTS. (a) In the event of a default in payment of a conservation loan made by a lender district or the failure of an individual borrower to perform any of the terms or conditions of the conservation loan agreement, the lender district shall pursue all remedies available under law, including without limitation foreclosure under the conservation loan agreement and liquidation of any collateral provided under the conservation loan agreement. The lender district shall sell the collateral on terms and subject to procedures that it follows in liquidating other collateral.

[(b) Foreclosure under a conservation loan agreement shall be accomplished in the manner provided by law for foreclosure of similar loan agreements made by private lending institutions and by the conservation loan agreement.

[(c) The state guarantees to each lender district that in the event an individual borrower defaults on a conservation loan made by the lender district with money from this program, the state will assume 50 percent of the amount that remains due and payable under the default after all collateral for the conservation loan is liquidated.

[(d) The state is entitled to recover its pro rata share of any money recovered on a defaulted conservation loan on which the state has assumed liability under Subsection (c)].

(r) Section 17.902, Water Code, is amended to read as follows:

Sec. 17.902. REVIEW OF APPLICATION FOR AND APPROVAL OF GRANT. (a) In reviewing an application by a political subdivision for a grant, the board shall consider:

(1) the degree to which the political subdivision has used other available resources to finance the use for which the application is being made;

(2) the willingness and ability of the political subdivision to raise revenue;

(3) the commitment of the political subdivision to water conservation; and

(4) the benefits that will be gained by making the grant.

(b) To approve a grant to a political subdivision, the board must find that:

(1) the grant funds will supplement rather than replace money of the political subdivision;

(2) the public interest is served by providing the grant; and

(3) the grant will further water conservation in the state [AUTHORITY OF DISTRICTS. A lender or borrower district may borrow and lend money for the purposes of this subchapter and may adopt necessary rules to carry out this subchapter].

(s) Subchapter J, Chapter 17, Water Code, is amended by adding Sections 17.9021 and 17.9022 to read as follows:

Sec. 17.9021. APPLICATION FOR AND APPROVAL OF LOAN. (a) In reviewing an application by a political subdivision for a loan, the board shall consider the ability of the political subdivision to repay the loan and whether the loan will further water conservation in this state.

(b) To approve a loan to a political subdivision, the board must determine that:

(1) the public interest is served by providing the loan;

(2) the political subdivision has the ability to repay the loan; and

(3) the loan will further water conservation in the state.

(c) The board by rule shall establish the rate of interest it charges for a loan to a political subdivision.

Sec. 17.9022. FINANCING OF GRANT OR LOAN FOR POLITICAL SUBDIVISION; DEFAULT; VENUE. (a) The board may make a loan or grant available to a political subdivision in any manner the board considers economically feasible, including purchase of bonds or securities of the political subdivision or execution of a loan or grant agreement with the political subdivision. The board may not purchase bonds or securities that have not been approved by the attorney general and registered by the comptroller.

(b) In the event of a default in payment of the principal of or interest on bonds or securities purchased by the board, or any other default as defined in the proceedings or indentures authorizing the issuance of bonds, or a default of any of the terms of a loan agreement, the attorney general shall seek a writ of mandamus or other legal remedy to compel the political subdivision or its officers, agents, and employees to cure the default by performing the duties they are legally obligated to perform. The proceedings shall be brought and venue is in a district court in Travis County. This subsection is cumulative of any other rights or remedies to which the board may be entitled.

(t) Section 17.903, Water Code, is amended to read as follows:

Sec. 17.903. CONTRACT AUTHORITY. (a) A political subdivision may borrow money for the purposes of this subchapter and may adopt necessary rules to carry out this subchapter ~~[RULES AND CONTRACTS. (a) The board shall adopt rules necessary to carry out this subchapter. The board by rule shall identify methods to be used by lender districts to ensure the financial integrity of a loan to an individual borrower, including an irrevocable letter of credit or a lien on property in excess of value of improvements].~~

(b) ~~[The board by rule may establish:
(1) procedures for applying for a loan or grant under Section 17.894(b);
(2) procedures for considering and approving applications and for making loans or grants under Section 17.894(b); and
(3) the rate of interest the board charges, if any, for loans under Section 17.894(b).~~

~~[(e)]~~ The board shall have the power to enter into any contracts to carry out the provisions of this subchapter.

(u) Subchapter J, Chapter 17, Water Code, is amended by adding Sections 17.904 through 17.912 to read as follows:

Sec. 17.904. LINKED DEPOSIT. A linked deposit is a deposit governed by a written deposit agreement between the board and an eligible lending institution that provides that:

(1) the eligible lending institution pay interest on the deposit at a rate determined by the board;

(2) the state not withdraw any part of the deposit before the expiration of a period set by a written advance notice of the intention to withdraw; and

(3) the eligible lending institution agree to lend the value of the deposit to a person at a maximum rate that is the rate paid by the eligible lending institution to the board plus a maximum of four percent.

Sec. 17.905. LINKED DEPOSIT PROGRAM. (a) The board by rule may establish an agricultural water conservation linked deposit program in accordance with this subchapter.

(b) An eligible lending institution may participate in the program established under this section as provided by this subchapter.

Sec. 17.906. APPLICATION BY ELIGIBLE LENDING INSTITUTIONS TO PARTICIPATE IN LINKED DEPOSIT PROGRAM. To participate in the agricultural water conservation linked deposit program, an eligible lending institution must:

(1) solicit loan applications, which must contain a description of an agricultural water conservation project;

(2) review applications to determine if applicants are eligible and creditworthy; and

(3) submit the applications of eligible and creditworthy applicants to the executive administrator with a certification:

(A) of the interest rate applicable to each applicant by the eligible lending institution; and

(B) of the soil and water conservation district in which an applicant is located by a director of the district that states that:

(i) the applicant of the proposed project has a soil and water conservation plan approved by the district; and

(ii) the project furthers or implements the plan.

Sec. 17.907. APPROVAL OR REJECTION OF APPLICATION. The board may approve or reject an application of an eligible lending institution to participate in the program. The board may delegate its authority to approve or reject applications to the executive administrator.

Sec. 17.908. DEPOSIT AGREEMENT. If the board approves an application of an eligible lending institution, the board and the eligible lending institution shall enter into a written deposit agreement. The agreement shall contain the conditions on which the linked deposit is made. On execution of the agreement, the board shall place a linked deposit from the fund with the eligible lending institution in accordance with the agreement. A delay in payment or a default on a loan by an applicant does not affect the validity of the deposit agreement.

Sec. 17.909. COMPLIANCE. (a) On accepting a linked deposit, an eligible lending institution must lend money to an approved applicant in accordance with the deposit agreement and this subchapter. The eligible lending institution shall forward a compliance report to the board in accordance with board rules. The board shall adopt rules regarding the compliance report.

(b) The board shall monitor compliance with this subchapter and inform the comptroller of noncompliance on the part of an eligible lending institution.

Sec. 17.910. STATE LIABILITY PROHIBITED. The state is not liable to an eligible lending institution for payment of the principal, interest, or any late charges on a loan made to an approved applicant. A linked deposit is not an extension of the state's credit within the meaning of any state constitutional prohibition.

Sec. 17.911. LIMITATIONS ON PROGRAM. (a) The maximum amount of a loan under the linked deposit program is \$250,000.

(b) The board may withdraw linked deposits from an eligible lending institution if the institution ceases to be either a state depository or a Farm Credit System institution headquartered in this state.

Sec. 17.912. RULES. The board shall adopt rules necessary to carry out this subchapter. Applications shall be in the form and manner as provided by board rules.

(v) The agricultural trust fund and the agricultural soil and water conservation fund are abolished and all assets of those funds are transferred to the agricultural water conservation fund.

(w) The following provisions of the Water Code are repealed:

(1) Subchapters G, H, and I, Chapter 15; and

(2) Subdivision (2), Section 17.871, Subdivision (7), Section 17.871, and

Section 17.8955.

(x) The Texas Water Development Board shall continue to administer a loan made before September 1, 2003, under the pilot program for low-interest loans for agricultural water conservation equipment until the loan is fully repaid. Subchapter I, Chapter 15, Water Code, is continued in effect for the limited purpose of allowing the board to administer those loans and to pursue remedies if a loan recipient defaults on a loan or otherwise violates the terms of the loan or of any loan guarantee instrument.

(y) The Texas Water Development Board shall continue to administer a conservation loan made before September 1, 2003, under Subchapter J, Chapter 17, Water Code. Subchapter J, Chapter 17, Water Code, as it existed immediately before September 1, 2003, is continued in effect for the limited purpose of allowing the board to administer those loans and to pursue remedies if a loan recipient defaults on a loan or otherwise violates the terms of the loan or of any loan guarantee.

(z) This section takes effect September 1, 2003.

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

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

CSHB 3442 as amended was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 3442 ON THIRD READING

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3442** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE HOUSE BILL 1941 ON SECOND READING

Senator Bivins moved to suspend the regular order of business to take up for consideration **CSHB 1941** at this time on its second reading:

CSHB 1941, Relating to authorizing the issuance of revenue bonds to finance certain facilities and projects at certain public institutions of higher education and exempting the facilities and projects financed by the bonds from prior approval by the Texas Higher Education Coordinating Board.

The motion prevailed by a viva voce vote.

The bill was read second time.

Senator Bivins offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1941** (Senate committee printing) in SECTION 3, in added Section 55.1742, Education Code, by inserting the following new Subsection (d) (page 2, between lines 68 and 69), and renumbering the subsequent subsections of Section 55.1742 accordingly:

(d) In addition to the other authority granted by this subchapter, the board of regents of The University of Texas System may acquire, purchase, construct, improve, renovate, enlarge, or equip property, buildings, structures, or other facilities, including roads and related infrastructure, for The University of Texas Health Science Center at Houston for the replacement of research and academic facilities lost in Tropical Storm Allison, to be financed by the issuance of bonds in accordance with this subchapter,

including bonds issued in accordance with a systemwide revenue financing program and secured as provided by that program, in an aggregate principal amount not to exceed \$30 million.

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

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

CSHB 1941 as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1941 ON THIRD READING**

Senator Bivins moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1941** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Staples.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 28, 2003

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 164, Honoring Chief Warrant Officer David S. Williams for bravery displayed in Operation Iraqi Freedom.

HCR 165, Honoring U.S. Army Sergeant James Riley for heroism displayed in Operation Iraqi Freedom.

HCR 166, Honoring U.S. Army pilot Ronald Young, Jr., for bravery displayed in Operation Iraqi Freedom.

HCR 167, Honoring U.S. Army Specialist Edgar Hernandez for heroism displayed during Operation Iraqi Freedom.

HCR 168, Honoring U.S. Army Specialist Shoshana Johnson for her bravery displayed in Operation Iraqi Freedom.

HCR 256, Directing the White-tailed Deer Advisory Committee to address how habitat relates to the ecological diversity of the state and to study the role of the wildlife biologist in the development of management plans and in the utilization of suitable management practices, including population goals and control, yearly census data, supplemental feeding and food plots, and genetic management.

HCR 269, Designating the East Texas What-A-Melon Festival as the Official Watermelon Festival of the State of Texas.

HCR 272, Recalling H.B. No. 2533.

SCR 46, Designating April of 2003 as Sexual Assault Awareness Month.

SCR 58, Extending sincere condolences to the bereaved family of the Honorable Dean Neugent.

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

HB 1387 (non-record vote)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

SENATE RESOLUTION 986

Senator Gallegos offered the following resolution:

WHEREAS, Johnny N. Mata of Houston has long rendered exceptional service to the Latino community in Texas and to the cause of social justice; and

WHEREAS, Born May 6, 1937, Mr. Mata grew up in Houston's East End and attended Austin High School; he later served his country as a member of the United States Army, during which time he was posted in Germany; while overseas, he made the most of the opportunity to explore a variety of European cultures; and

WHEREAS, Mr. Mata returned to Houston following his discharge, and in 1968, he joined the staff of the Gulf Coast Community Services Association; possessing an inexhaustible energy and an unflagging desire to help those struggling to make a better life for themselves, he proved an invaluable asset to the agency and remained there for 32 years until his retirement in June of 2000; and

WHEREAS, Mr. Mata's commitment to a life of service has further borne fruit in the creation of the Latino Learning Center, Incorporated, a nonprofit organization that he cofounded in 1979 and that provides low-income clients in the Houston area with vocational training and other vital assistance; and

WHEREAS, In addition, from the time he was a boy stepping forward to confront a school bully, Johnny Mata has raised his voice repeatedly and unhesitatingly against prejudice and injustice; for the past 35 years, he has addressed those issues as a leader in the League of United Latin American Citizens (LULAC); currently director of media and communications for LULAC District VIII in the Houston area, he has served two terms as Texas state director, two terms as state deputy director, and six terms as director of two local LULAC districts; and

WHEREAS, Over the years, Mr. Mata has spoken out forcefully about such matters as the deaths of Latino detainees in police custody, the lack of Latino representation on grand juries, and incendiary ethnic remarks made by both local and national figures; a well-known and highly regarded community leader, he has spurred favorable action on specific concerns from such individuals as owners of a local professional sports team to residents of the White House; and

WHEREAS, Through his productive professional career and his spirited, unflagging advocacy, Johnny Mata has aided countless individuals and contributed immeasurably to building a stronger, more just society; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 78th Legislature, hereby honor Johnny N. Mata for his inspiring service on behalf of the League of United Latin American Citizens and the people of Houston and extend to him sincere appreciation for his steadfast commitment to securing a brighter future for residents of the Lone Star State; and, be it further

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

The resolution was again read.

The resolution was previously adopted on Tuesday, May 27, 2003.

GUEST PRESENTED

Senator Gallegos was recognized and introduced to the Senate Johnny Mata of Houston.

The Senate welcomed its guest.

COMMITTEE SUBSTITUTE HOUSE BILL 2964 ON SECOND READING

Senator Ellis moved to suspend the regular order of business to take up for consideration **CSHB 2964** at this time on its second reading:

CSHB 2964, Relating to the operation of municipal school districts and the levy of municipal school district taxes.

The motion prevailed by a viva voce vote.

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

COMMITTEE SUBSTITUTE HOUSE BILL 2964 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2964** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

(Senator Armbrister in Chair)**GUESTS PRESENTED**

Senator Ogden was recognized and introduced to the Senate members of Girl Scout Troop 189 of Georgetown, accompanied by their troop leaders and parents.

The Senate welcomed its guests.

COMMITTEE SUBSTITUTE**HOUSE JOINT RESOLUTION 44 ON SECOND READING**

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHJR 44** at this time on its second reading:

CSHJR 44, Proposing a constitutional amendment to permit a six-person jury in a district court misdemeanor trial.

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

COMMITTEE SUBSTITUTE**HOUSE JOINT RESOLUTION 44 ON THIRD READING**

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHJR 44** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The resolution was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE JOINT RESOLUTION 55 ON SECOND READING

On motion of Senator Janek and by unanimous consent, the regular order of business was suspended to take up for consideration **HJR 55** at this time on its second reading:

HJR 55, Proposing a constitutional amendment to authorize the legislature to exempt from ad valorem taxation property owned by a religious organization that is leased for use as a school or that is owned with the intent of expanding or constructing a religious facility.

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

HOUSE JOINT RESOLUTION 55 ON THIRD READING

Senator Janek moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HJR 55** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The resolution was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1268 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1268** at this time on its second reading:

HB 1268, Relating to outpatient drug benefit coverage in certain health insurance policies and discount drug programs.

The bill was read second time.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1268** as follows:

In SECTION 1 of the bill, on page 1 line 37, strike "under an agreement made between an insurer and" and substitute "pursuant to an agreement made with a participating pharmacy".

The floor amendment was read and was adopted without objection.

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

HB 1268 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1268 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1268** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

COMMITTEE SUBSTITUTE**HOUSE JOINT RESOLUTION 54 ON SECOND READING**

On motion of Senator Brimer and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHJR 54** at this time on its second reading:

CSHJR 54, Proposing a constitutional amendment providing that certain benefits in certain public retirement systems may not be reduced or impaired.

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

COMMITTEE SUBSTITUTE**HOUSE JOINT RESOLUTION 54 ON THIRD READING**

Senator Brimer moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHJR 54** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The resolution was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 85 ON SECOND READING

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 85** at this time on its second reading:

HB 85, Relating to the establishment of an undergraduate medical academy at Prairie View A&M University.

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

HOUSE BILL 85 ON THIRD READING

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 85** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

COMMITTEE SUBSTITUTE**HOUSE BILL 3441 ON SECOND READING**

On motion of Senator Staples and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3441** at this time on its second reading:

CSHB 3441, Relating to a reduction in expenditures of certain state governmental entities, including changes affecting the Commission on Human Rights, attorney general's office, management of certain accounts and funds, and certain election-related forms.

The bill was read second time.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3441** (committee printing) by striking SECTIONS 9, 10, 11, and 15 and renumbering subsequent sections accordingly:

The floor amendment was read and was adopted without objection.

Senator Brimer offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 3441**, Section 17 by adding the following appropriately numbered section:

Section 506.002, Labor Code;

The floor amendment was read and was adopted without objection.

Senator Staples, on behalf of Senator Armbrister, offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 3441** as follows:

(1) Strike the last sentence of SECTION 4 of the bill.

(2) Add the appropriately numbered SECTIONS of the bill and renumber subsequent SECTIONS of the bill appropriately:

SECTION _____. Chapter 412, Government Code, is transferred to Subchapter D, Chapter 96, Education Code, redesignated as Sections 96.65, 96.651, and 96.652, and amended to read as follows:

~~[CHAPTER 412. CRIME VICTIMS' INSTITUTE AND CRIME
VICTIMS' INSTITUTE ADVISORY COUNCIL
[SUBCHAPTER A. GENERAL PROVISIONS]~~

Sec. 96.65 ~~[412.001]~~. CRIME VICTIMS' INSTITUTE ~~[DEFINITIONS]~~. (a) In this section ~~[chapter]~~:

(1) ~~["Advisory council" means the Crime Victims' Institute Advisory Council.~~

~~(2) "Close relative of a deceased victim" has the meaning assigned by Article 56.01, Code of Criminal Procedure.~~

~~(3) "Guardian of a victim" has the meaning assigned by Article 56.01, Code of Criminal Procedure.~~

~~(4) "Institute" means the Crime Victims' Institute.~~

~~(5) "Service provider" means an individual or organization that provides assistance to victims, close relatives of deceased victims, or guardians of victims.~~

~~(6) "Victim" has the meaning assigned by Article 56.01, Code of Criminal Procedure.~~

(b) ~~[Sec. 412.002. LEGISLATIVE INTENT.]~~ It is the intent of the legislature to create an institute to:

(1) compile and study information concerning the impact of crime on:

- (A) victims;
- (B) close relatives of deceased victims;
- (C) guardians of victims; and
- (D) society;

(2) use information compiled by the institute to evaluate the effectiveness of criminal justice policy and juvenile justice policy in preventing the victimization of society by crime;

(3) develop policies to assist the criminal justice system and the juvenile justice system in preventing the victimization of society by crime; and

(4) provide information related to the studies of the institute.

~~(c) [SUBCHAPTER B. CRIME VICTIMS' INSTITUTE
[Sec. 412.011. GENERAL PROVISION.]~~ The headquarters of the institute are at Sam Houston State University in Huntsville, Texas. The institute is under the supervision and direction of the president of Sam Houston State University ~~[Crime Victims' Institute is created in the office of the attorney general].~~

~~(d) [Sec. 412.012. DUTIES OF INSTITUTE.]~~ The institute shall:

- (1) conduct an in-depth analysis of the impact of crime on:
 - (A) victims;
 - (B) close relatives of deceased victims;
 - (C) guardians of victims; and
 - (D) society;
- (2) evaluate the effectiveness of and deficiencies in the criminal justice system and the juvenile justice system in addressing the needs of victims, close relatives of deceased victims, and guardians of victims and recommend strategies to address the deficiencies of each system;
- (3) determine the long-range needs of victims, close relatives of deceased victims, and guardians of victims as the needs relate to the criminal justice system and the juvenile justice system and recommend changes for each system;
- (4) assess the cost-effectiveness of existing policies and programs in the criminal justice system and the juvenile justice system relating to victims, close relatives of deceased victims, and guardians of victims;
- (5) make general recommendations for improving the service delivery systems for victims in the State of Texas;
- (6) advise and assist the legislature in developing plans, programs, and legislation for improving the effectiveness of the criminal justice system and juvenile justice system in addressing the needs of victims, close relatives of deceased victims, and guardians of victims;
- (7) make computations of daily costs and compare interagency costs on victims' services provided by agencies that are a part of the criminal justice system and the juvenile justice system;
- (8) determine the costs to attorneys representing the state of performing statutory and constitutional duties relating to victims, close relatives of deceased victims, or guardians of victims;
- (9) make statistical computations for use in planning for the long-range needs of the criminal justice system and the juvenile justice system as those needs relate to victims, close relatives of deceased victims, and guardians of victims;
- (10) determine the long-range information needs of the criminal justice system and the juvenile justice system as those needs relate to victims, close relatives of deceased victims, and guardians of victims;
- (11) enter into a memorandum of understanding with the Texas Crime Victim Clearinghouse to provide training and education related to the outcome of research and duties as conducted under Subdivisions (1)-(10);
- (12) issue periodic reports to the attorney general and the legislature on the progress toward accomplishing the duties of the institute; and
- (13) engage in other research activities consistent with the duties of the institute.

(e) [~~Sec. 412.013. INTERAGENCY COOPERATION. (a)~~] The institute shall cooperate with the Criminal Justice Policy Council in performing the duties of the institute.

(f) [~~(b)~~] The institute may enter into memoranda of understanding with state agencies in performing the duties of the institute.

(g) ~~(e)~~ Local law enforcement agencies shall cooperate with the institute by providing to the institute access to information that is necessary for the performance of the duties of the institute.

(h) ~~[Sec. 412.014. PERSONNEL.]~~ The president of Sam Houston State University ~~[attorney general]~~ may employ personnel as necessary to perform the duties of the institute.

~~(i) [Sec. 412.015. CONTRACTUAL AUTHORITY. (a) The attorney general may contract with public or private entities in the performance of the duties of the institute.]~~

~~(b)~~ The institute may contract with public or private entities in the performance of the duties of the institute.

~~(j) [Sec. 412.016. GIFTS, GRANTS, DONATIONS, APPROPRIATIONS. (a) The [attorney general or the] institute may accept gifts, grants, donations, or matching funds from a public or private source for the performance of the duties of the institute.]~~

~~(b)~~ The legislature may appropriate money to the institute to finance the performance of the duties of the institute.

~~(e)~~ Money and appropriations received by ~~[the attorney general or]~~ the institute under this subsection ~~[section]~~ shall be deposited as provided by Section 96.652 ~~[412.081]~~.

~~[SUBCHAPTER C. CRIME VICTIMS' INSTITUTE
ADVISORY COUNCIL]~~

Sec. 96.651 ~~[412.051]. CRIME VICTIMS' INSTITUTE [CREATION AND COMPOSITION OF] ADVISORY COUNCIL. (a) In this section:~~

(1) "Advisory council" means the Crime Victims' Institute Advisory Council.

(2) "Victim" has the meaning assigned by Article 56.01, Code of Criminal Procedure.

(b) The Crime Victims' Institute Advisory Council is created as an advisory council to the Crime Victims' Institute [institute].

(c) ~~(b)~~ The advisory council is composed of the attorney general and the following individuals, each of whom is appointed by the governor ~~[attorney general]~~:

- (1) a victim;
- (2) a member of the house of representatives;
- (3) a member of the senate;
- (4) a county judge or district judge whose primary responsibility is to preside over criminal cases;
- (5) a district attorney, criminal district attorney, county attorney who prosecutes felony offenses, or county attorney who prosecutes mostly criminal cases;
- (6) a law enforcement officer;
- (7) a crime victims' assistance coordinator;
- (8) a crime victims' liaison;
- (9) a mental health professional with substantial experience in the care and treatment of victims;
- (10) a person with broad knowledge of sexual assault issues;
- (11) a person with broad knowledge of domestic violence issues;

- (12) a person with broad knowledge of child abuse issues;
- (13) a person with broad knowledge of issues relating to the intoxication offenses described by Chapter 49, Penal Code;
- (14) a person with broad knowledge of homicide issues;
- (15) a person with broad knowledge of research methods; and
- (16) a designee of the governor.

~~(d)~~ ~~(e)~~ The advisory council shall select a presiding officer from among the council members and other officers that the council considers necessary.

~~(e)~~ ~~[Sec. 412.052. MEETINGS.]~~ The advisory council shall meet at the call of the presiding officer.

~~(f)~~ ~~Appointed~~ ~~[Sec. 412.053. TENURE OF MEMBERS. The]~~ members of the advisory council serve for staggered two-year terms, with the terms of eight of the members expiring on January 31 of each even-numbered year and the terms of eight ~~[seven]~~ members expiring on January 31 of each odd-numbered year.

~~(g)~~ ~~[Sec. 412.054. SERVICE ADDITIONAL DUTY OF OFFICE.]~~ Service on the advisory council by a public officer or employee is an additional duty of the office or employment.

~~(h)~~ ~~[Sec. 412.055. COMPENSATION AND REIMBURSEMENT.]~~ A member of the advisory council serves without compensation for service on the council but may be reimbursed for actual and necessary expenses incurred while performing council duties.

~~(i)~~ ~~[Sec. 412.056. APPOINTMENT OF OTHER ADVISORY BODIES.]~~ The advisory council may establish advisory task forces or committees that the council considers necessary to accomplish the purposes of this section and Sections 96.65 and 96.652 ~~[chapter]~~.

~~(j)~~ ~~[Sec. 412.057. DUTIES OF ADVISORY COUNCIL.]~~ The advisory council shall advise the Crime Victims' Institute ~~[institute]~~ on issues relating directly to the duties of the institute as set forth under Section 96.65(d) ~~[412.012]~~.

~~[SUBCHAPTER D. CRIME VICTIMS' INSTITUTE ACCOUNT]~~

Sec. 96.652 ~~[412.081]~~. CRIME VICTIMS' INSTITUTE ACCOUNT; AUDIT; REPORT. (a) The Crime Victims' Institute account is an account in the general revenue fund.

(b) The Crime Victims' Institute ~~[attorney general]~~ may use funds from the Crime Victims' Institute account to carry out the purposes of this section and Sections 96.65 and 96.651 ~~[chapter]~~.

(c) The comptroller shall deposit the funds received under Section 96.65 ~~[this chapter]~~ to the credit of the Crime Victims' Institute account.

(d) Funds spent are subject to audit by the state auditor.

~~(e)~~ ~~[Section 403.094 does not apply to funds collected under this chapter.]~~

~~[Sec. 412.082. ANNUAL REPORT. (a)]~~ The Crime Victims' Institute ~~[institute]~~ shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the institute during the preceding year.

~~(b)~~ The form of the annual report and the reporting time shall be as provided by the General Appropriations Act.

~~[(e)]~~ The Crime Victims' Institute ~~[institute]~~ shall determine the format and contents of the report and may have copies of the report printed for distribution as the institute considers appropriate.

SECTION _____. Subsection (b), Article 56.54, Code of Criminal Procedure, is amended to read as follows:

(b) Except as provided by Subsections (h), (i), (j), and (k) and Article 56.541, the compensation to victims of crime fund may be used only by the attorney general for the payment of compensation to claimants or victims under this subchapter. For purposes of this subsection, compensation to claimants or victims includes money allocated from the fund to[-] the [operation of the] Crime Victims' Institute created by Section 96.65 [Chapter 412], Education [Government] Code, for the operation of the institute and for other expenses in administering this subchapter. The institute shall use money allocated from the fund only for the purposes of Sections 96.65, 96.651, and 96.652, Education Code.

SECTION _____. Section 411.130, Government Code, is amended to read as follows:

Sec. 411.130. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION; CRIME VICTIMS' INSTITUTE. The Crime Victims' Institute is entitled to obtain from the department criminal history record information maintained by the department that the institute believes is necessary for the performance of the duties of the institute under Section 96.65, Education Code [Chapter 412].

SECTION _____. (a) The terms of the current members of the Crime Victims' Institute Advisory Council expire on the effective date of this Act.

(b) As soon as practicable after the effective date of this Act, the governor shall appoint new members to the Crime Victims' Institute Advisory Council, as provided by Section 96.651, Education Code, as added by this Act. The terms of eight members, determined by lot, expire January 31, 2005. The terms of eight members, determined by lot, expire January 31, 2006.

SECTION _____. On the effective date of this Act:

(1) all powers, duties, and obligations relating to the Crime Victims' Institute are transferred from the attorney general to Sam Houston State University;

(2) all property in the custody of the attorney general and the original or a copy of any record that relates to the Crime Victims' Institute are transferred to the university;

(3) all unexpended appropriations to the attorney general for the operation of the Crime Victims' Institute are transferred to the university; and

(4) all rules, standards, and specifications of the attorney general relating to the operation of the Crime Victims' Institute remain in effect as rules, standards, and specifications of Sam Houston State University unless superseded by the president of the university.

SECTION _____. This Act takes effect September 1, 2003.

The floor amendment was read and was adopted without objection.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 4

Amend SECTIONS 1-3 of **CSHB 3441** to read as follows and renumber subsequent sections accordingly:

SECTION 1. Subchapter A, Chapter 21, Labor Code, is amended by adding Section 21.0015 to read as follows:

Sec. 21.0015. TEXAS WORKFORCE COMMISSION CIVIL RIGHTS DIVISION. The powers and duties exercised by the Commission on Human Rights under this chapter are transferred to the Texas Workforce Commission civil rights division. A reference in this chapter to the "commission" means the Texas Workforce Commission civil rights division.

SECTION 2. Chapter 301, Labor Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. CIVIL RIGHTS DIVISION

Sec. 301.151. DEFINITIONS. In this subchapter:

- (1) "Director" means the director of the division.
- (2) "Division" means the civil rights division of the commission.
- (3) "Human rights commission" means the Commission on Human Rights established by this subchapter.

Sec. 301.152. GENERAL PROVISIONS. (a) The division is an independent division in the commission. The division shall be responsible for administering Chapter 21 of this code and Chapter 301, Property Code, including exercising the powers and duties formerly exercised by the former Commission on Human Rights under those laws.

(b) A reference in Chapter 21 of this code, Chapter 301, Property Code, or any other law to the former Commission on Human Rights means the division.

Sec. 301.153. HUMAN RIGHTS COMMISSION. (a) The division is governed by the human rights commission, which consists of seven members as follows:

- (1) one member who represents industry;
- (2) one member who represents labor; and
- (3) five members who represent the public.

(b) The members of the human rights commission established under this section shall be appointed by the governor. In making appointments to the human rights commission, the governor shall strive to achieve representation on the human rights commission that is diverse with respect to disability, religion, age, economic status, sex, race, and ethnicity.

(c) The term of office of each commissioner is six years. The governor shall designate one commissioner to serve as presiding officer.

(d) A commissioner is entitled to reimbursement of actual and necessary expenses incurred in the performance of official duties.

(e) The human rights commission shall establish policies for the division and supervise the director in administering the activities of the division.

(f) The human rights commission is the state authority established as a fair employment practice agency and is authorized, with respect to an unlawful employment practice, to:

- (1) grant relief from the practice;

(2) seek relief from the practice; or

(3) institute criminal proceedings.

Sec. 301.154. DIRECTOR. (a) The director shall be appointed by the human rights commission to administer the powers and duties of the division.

(b) To be eligible for appointment, the director must have relevant experience in the area of civil rights, specifically in working to prevent the types of discrimination the division is charged with preventing. The director must demonstrate a commitment to equal opportunity for minorities, women, and the disabled. The director should also have relevant experience with housing and employment discrimination claims.

Sec. 301.155. INVESTIGATOR TRAINING PROGRAM; PROCEDURES MANUAL. (a) A person who is employed under this chapter by the division as an investigator may not conduct an investigation until the person completes a comprehensive training and education program for investigators that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the requirements relating to employment adopted under the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.) and its subsequent amendments, with a special emphasis on requirements regarding reasonable accommodations;

(2) various types of disabilities and accommodations appropriate in an employment setting for each type of disability; and

(3) fair employment and housing practices.

(c) Each investigator shall annually complete a continuing education program designed to provide investigators with the most recent information available regarding the issues described by Subsection (b), including legislative and judicial changes in the law.

(d) The director shall develop and biennially update an investigation procedures manual. The manual must include investigation procedures and information and may include information regarding the Equal Employment Opportunity Commission and the United States Department of Housing and Urban Development.

Sec. 301.156. ANALYSIS OF DISCRIMINATION COMPLAINTS; REPORT.

(a) The division shall collect and report statewide information relating to employment and housing discrimination complaints as required by this section.

(b) Each state fiscal year, the division shall collect and analyze information regarding employment and housing discrimination complaints filed with the division, the Equal Employment Opportunity Commission, the United States Department of Housing and Urban Development, and local commissions in this state. The information must include:

(1) an analysis of employment complaints filed by the basis of the complaint, including:

(A) sex, race, color, age, disability, national origin, religion, and genetic information; and

(B) retaliatory actions against the complainant;

(2) an analysis of housing complaints filed by the basis of the complaint, including sex, race, color, disability, national origin, religion, and familial status;

(3) an analysis of employment complaints filed by issue, including discharge, terms and conditions, sexual harassment, promotion, hiring, demotion, and layoff;

(4) an analysis of housing complaints filed by issue, including terms and conditions, refusal to rent or sell, discriminatory financing or advertising, and false representation;

(5) an analysis of employment and housing cases closed by the reason the case was closed, including findings or determinations of cause or no cause, successful conciliation, right to sue issued, complaint withdrawn after resolution, no-fault settlement, failure to cooperate by the complainant, and lack of jurisdiction; and

(6) the average processing time for complaints resolved by the division in each state fiscal year, regardless of whether the complaint was filed in the same fiscal year in which the complaint was resolved.

(c) The results of an analysis required under this section shall be included in the commission's annual report to the governor and legislature.

SECTION 3. Subchapter A, Chapter 301, Property Code, is amended by adding Section 301.0015 to read as follows:

Sec. 301.0015. TEXAS WORKFORCE COMMISSION CIVIL RIGHTS DIVISION. The powers and duties exercised by the Commission on Human Rights under this chapter are transferred to the Texas Workforce Commission civil rights division. A reference in this chapter to the "commission" means the Texas Workforce Commission civil rights division.

SECTION 4. The following laws are repealed:

- (1) Chapter 461, Government Code;
- (2) Sections 21.002(2) and (3), Labor Code; and
- (3) Sections 301.003(3), 301.061, and 301.064, Property Code.

SECTION 5. On the effective date of this Act:

(1) the Commission on Human Rights as it exists immediately before the effective date of this Act is abolished and the offices of the members of the commission serving on that date are abolished;

(2) all powers, duties, functions, and activities performed by the Commission on Human Rights immediately before the effective date of this Act are transferred to the Texas Workforce Commission civil rights division;

(3) a rule, form, order, or procedure adopted by the Commission on Human Rights is a rule, form, order, or procedure of the Texas Workforce Commission civil rights division and remains in effect until changed by the Texas Workforce Commission;

(4) a reference in law to the Commission on Human Rights means the Texas Workforce Commission civil rights division;

(5) a complaint, investigation, or other proceeding pending before the Commission on Human Rights under Chapter 21, Labor Code, Chapter 301, Property Code, or any other law is transferred without change in status to the Texas Workforce Commission civil rights division;

(6) all obligations, rights, and contracts of the Commission on Human Rights are transferred to the Texas Workforce Commission civil rights division; and

(7) all property, including records and money, in the custody of the Commission on Human Rights and all funds appropriated by the legislature for the Commission on Human Rights, including federal funds, shall be transferred to the Texas Workforce Commission civil rights division.

SECTION 6. Not later than November 1, 2003, the governor shall appoint new members to the Commission on Human Rights established under Subchapter I, Chapter 301, Labor Code, as added by this Act. In appointing members under this section, the governor shall appoint:

- (1) two members for terms expiring February 1, 2005;
- (2) two members for terms expiring February 1, 2007; and
- (3) three members for terms expiring February 1, 2009.

SECTION 7. This act shall take effect upon certification of the Texas Workforce Commission Civil Rights Division by the appropriate federal agency, and the transfer of related federal funds. Upon certification of Texas Workforce Commission Civil Rights Division by the appropriate federal agency, the Workforce Commission shall file with the Secretary of State for publication in the Texas Register.

The floor amendment was read and was adopted without objection.

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

CSHB 3441 as amended was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 3441 ON THIRD READING

Senator Staples moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3441** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE HOUSE BILL 599 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 599** at this time on its second reading:

CSHB 599, Relating to the continuation and functions of the State Bar of Texas and to conflicts of interest with respect to certain persons engaged in the practice of law.

The bill was read second time.

(Senator Duncan in Chair)

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 599** (Senate committee printing) as follows:

(1) Strike SECTION 13 of the bill and renumber the subsequent sections appropriately.

(2) Strike SECTION 14 of the bill and substitute the following appropriately numbered section:

SECTION _____. Section 81.054, Government Code, is amended by amending Subsection (a) and adding Subsections (f) through (i) to read as follows:

(a) The supreme court shall set fees for members of the state bar. The fees, other than those set for associate members, must be set in accordance with this section and Section 81.024.

(f) A person who is otherwise eligible to renew the person's membership may renew the membership by paying the required membership fees to the state bar on or before the due date.

(g) A person whose membership has been expired for 90 days or less may renew the membership by paying to the state bar membership fees equal to 1-1/2 times the normally required membership fees.

(h) A person whose membership has been expired for more than 90 days but less than one year may renew the membership by paying to the state bar membership fees equal to two times the normally required membership fees.

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

The floor amendment was read.

On motion of Senator Jackson, Floor Amendment No. 1 was withdrawn.

(President in Chair)

Senator Janek offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 599** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 152.004(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) To establish and maintain an alternative dispute resolution system, the commissioners court may set a court cost in an amount not to exceed \$15 [~~\$10~~] to be taxed, collected, and paid as other court costs in each civil case filed in a county or district court in the county, including a civil case relating to probate matters but not including:

- (1) a suit for delinquent taxes;
- (2) a condemnation proceeding under Chapter 21, Property Code; or

(3) a proceeding under Subtitle C, Title 7, Health and Safety Code.

SECTION _____. Section 152.005, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 152.005. ADDITIONAL FEE FOR JUSTICE COURTS [~~CERTAIN COUNTIES~~]. (a) To establish and maintain an alternative dispute resolution system, the commissioners court [~~of a county with a population of 2.5 million or more~~] may, in addition to the court cost authorized under Section 152.004, set a court cost in an amount not to exceed \$5 [~~\$3~~] for civil cases filed in a justice court located in the county, but not including:

(1) a suit for delinquent taxes; or

(2) an eviction proceeding, including a forcible detainer, a forcible entry and detainer, or a writ of re-entry.

(b) A clerk of the court shall collect and pay the court cost in the manner prescribed by Section 152.004(c).

The floor amendment was read and failed of adoption by the following vote: Yeas 14, Nays 16.

Yeas: Armbrister, Averitt, Bivins, Brimer, Deuell, Ellis, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ratliff, Williams.

Nays: Barrientos, Carona, Duncan, Estes, Gallegos, Harris, Hinojosa, Ogden, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Absent: Fraser.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 599** as follows:

(1) In SECTION 16 of the bill (Senate committee report, page 6, line 47), between "an" and "administrative", insert "option for a trial in a district court on a complaint and an".

(2) In SECTION 17 of the bill (Senate committee report, page 8, lines 22 through 27), strike added Section 81.075(b), Government Code, and substitute the following:

(b) After the chief disciplinary counsel reviews and investigates a complaint:

(1) if the counsel finds there is no just cause, the counsel shall place the complaint on a dismissal docket; or

(2) if the counsel finds just cause:

(A) the respondent attorney may request a trial in a district court on the complaint in accordance with the procedures adopted by the supreme court; or

(B) the counsel shall place the complaint on a hearing docket if the respondent attorney does not request a trial in a district court.

(3) In SECTION 17 of the bill (Senate committee report, page 8, line 60), strike "and".

(4) In SECTION 17 of the bill (Senate committee report, page 8, line 62), between "court" and the period, insert the following: "; and

(3) a judgment of a district court as in civil cases generally".

The floor amendment was read.

On motion of Senator Wentworth, Floor Amendment No. 3 was temporarily withdrawn.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 599** (Senate committee printing) as follows:

(1) Add the following appropriately numbered SECTIONS to the bill and renumber the subsequent SECTIONS accordingly:

SECTION _____. The heading to Chapter 84, Government Code, is amended to read as follows:

CHAPTER 84. ~~[UNAUTHORIZED]~~ ATTORNEY COMPENSATION

SECTION _____. Sections 84.001-84.004, Government Code, are designated as Subchapter A, Chapter 84, Government Code, and a subchapter heading is added to read as follows:

SUBCHAPTER A. UNAUTHORIZED ATTORNEY COMPENSATION
IN CRIMINAL MATTERS

SECTION _____. Chapter 84, Government Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. DIVISION OF FEES

Sec. 84.051. DIVISION OF FEES BETWEEN ATTORNEYS NOT OF SAME FIRM. An attorney may not divide a fee for legal services with another attorney who is not a partner in or associate of the attorney's law firm, unless:

(1) the client consents to employment of the other attorney in writing after a full disclosure that the fees will be divided;

(2) the division is in proportion to the services performed by each attorney or, after providing written notice to the client, each attorney assumes joint responsibility for the representation; and

(3) the total fee of the attorneys does not exceed reasonable compensation for all legal services the attorneys provided to the client.

(2) Immediately following SECTION 25 of the bill (page 11, between lines 15 and 16), insert the following:

(e) Section 84.051, Government Code, as added by this Act, applies only to a contract for attorney's fees that is executed on or after the effective date of this Act. A contract for fees that is executed before the effective date of this Act is governed by the law applicable to the contract immediately before the effective date of this Act, and that law is continued in effect for that purpose.

The floor amendment was read and failed of adoption by the following vote: Yeas 14, Nays 17.

Yeas: Armbrister, Averitt, Bivins, Brimer, Deuell, Estes, Fraser, Janek, Lucio, Nelson, Ogden, Ratliff, Staples, Williams.

Nays: Barrientos, Carona, Duncan, Ellis, Gallegos, Harris, Hinojosa, Jackson, Lindsay, Madla, Shapiro, Shapleigh, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Senator Whitmire offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 599** as follows:

Strike subsection (j) and replace as follows:

(j) The supreme court shall set an additional legal services fee in an amount of \$65 to be paid annually by each active member of the state bar except as provided by Subsection (k). Section 81.024 does not apply to a fee set under this subsection. This subsection expires on September 1, 2007.

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

RECORD OF VOTE

Senator Janek asked to be recorded as voting "Nay" on the adoption of Floor Amendment No. 5.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSHB 599** by striking page 1, line 11, through page 2, line 7, and substituting the following:

(b) The rules adopted under this section must allow an attorney licensed to practice law in another state to take the bar examination and, on passing the examination, be admitted to practice law in this state, provided that the attorney completed the law study requirements for admission at an approved or unapproved law school, if the attorney:

(1) is otherwise eligible to take the examination and be admitted to practice law; and

(2) is in good standing with the licensing authority of the other state and there is no disciplinary investigation or action pending against the attorney.

The floor amendment was read and failed of adoption by a viva voce vote.

RECORD OF VOTES

Senators Deuell and Van de Putte asked to be recorded as voting "Yea" on the motion to adopt Floor Amendment No. 6.

Floor Amendment No. 7 was not offered.

Senator Wentworth again offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 599** as follows:

(1) In SECTION 16 of the bill (Senate committee report, page 6, line 47), between "an" and "administrative", insert "option for a trial in a district court on a complaint and an".

(2) In SECTION 17 of the bill (Senate committee report, page 8, lines 22 through 27), strike added Section 81.075(b), Government Code, and substitute the following:

(b) After the chief disciplinary counsel reviews and investigates a complaint:

(1) if the counsel finds there is no just cause, the counsel shall place the complaint on a dismissal docket; or

(2) if the counsel finds just cause:

(A) the respondent attorney may request a trial in a district court on the complaint in accordance with the procedures adopted by the supreme court; or

(B) the counsel shall place the complaint on a hearing docket if the respondent attorney does not request a trial in a district court.

(3) In SECTION 17 of the bill (Senate committee report, page 8, line 60), strike "and".

(4) In SECTION 17 of the bill (Senate committee report, page 8, line 62), between "court" and the period, insert the following: "; and

(3) a judgment of a district court as in civil cases generally".

The floor amendment was again read and was adopted by the following vote: Yeas 23, Nays 8.

Yeas: Armbrister, Barrientos, Bivins, Carona, Deuell, Duncan, Ellis, Estes, Gallegos, Harris, Hinojosa, Janek, Lindsay, Madla, Nelson, Ogden, Ratliff, Shapiro, Shapleigh, Van de Putte, Wentworth, West, Whitmire.

Nays: Averitt, Brimer, Fraser, Jackson, Lucio, Staples, Williams, Zaffirini.

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

CSHB 599 as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 599 ON THIRD READING**

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 599** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

RECORD OF VOTE

Senator Estes asked to be recorded as voting "Nay" on the final passage of **CSHB 599**.

(Senator Estes in Chair)

COMMITTEE SUBSTITUTE
HOUSE BILL 1538 ON SECOND READING

Senator Shapleigh moved to suspend the regular order of business to take up for consideration **CSHB 1538** at this time on its second reading:

CSHB 1538, Relating to the continuation and functions of the Texas Funeral Service Commission, including certain functions transferred to the commission from the Texas Department of Health, and the powers and duties of the Texas Finance Commission and the banking commissioner of Texas regarding cemeteries; providing administrative and civil penalties.

The motion prevailed by a viva voce vote.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1538** (Senate committee printing) as follows:

(1) In SECTION 18 of the bill, strike amended Sections 651.302(a) and (b), Occupations Code (page 4, line 50, through page 5, line 7), and substitute:

(a) The commission shall issue a provisional license to practice funeral directing to an applicant who:

(1) is at least 18 years of age;

(2) has completed the educational requirements of Section 651.253 or is enrolled in an accredited school or college of mortuary science;

(3) is employed by a funeral director to learn funeral directing or embalming under the instruction and supervision of the funeral director;

(4) takes the written examination given by the commission;

(5) [~~4~~] files an application for a provisional license on a form provided by the commission and verified under oath by the applicant; and

(6) [~~5~~] pays any required application or license fee.

(b) The commission shall issue a provisional license to practice embalming to an applicant who:

(1) is at least 18 years of age;

(2) has completed the educational requirements of Section 651.253 or is enrolled in an accredited school or college of mortuary science;

(3) takes the written examination given by the commission;

(4) files an application for a provisional license;

(5) pays any required application or license fee; and

(6) complies with the requirements of this chapter and of the commission.

(2) In SECTION 26 of the bill, in amended Section 651.455(a), Occupations Code (page 6, line 35), strike "regulated by the commission".

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

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 1538** by striking SECTION 5 of the bill (Senate committee report, page 1, line 43 through line 51) and renumbering subsequent sections appropriately.

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

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

CSHB 1538 as amended was passed to third reading by a viva voce vote.

(Senator Armbrister in Chair)

HOUSE JOINT RESOLUTION 84 ON SECOND READING

Senator Van de Putte moved to suspend the regular order of business to take up for consideration **HJR 84** at this time on its second reading:

HJR 84, Proposing a constitutional amendment providing for the filling of a temporary vacancy in a public office created by the activation for military service of a public officer.

The motion prevailed by a viva voce vote.

RECORD OF VOTES

Senators Wentworth and Williams asked to be recorded as voting "Nay" on the suspension of the regular order of business.

The resolution was read second time.

Senator Van de Putte offered the following amendment to the resolution:

Floor Amendment No. 1

Amend **HJR 84** as follows:

(1) In Section 1 of the resolution, strike added Section 72(c), Article XVI, Texas Constitution (Senate committee printing, page 1, lines 29-39), and substitute the following:

(c) For an officer who is a member of the legislature, the member of the legislature shall select a person to serve as the temporary acting representative or senator, subject to approval of the selection by a majority vote of the appropriate house of the legislature. The temporary acting representative or senator must be:

(1) a member of the same political party as the member being temporarily replaced; and

(2) qualified for office under Section 6, Article III, of this constitution for a senator, or Section 7, Article III, of this constitution for a representative.

(2) In Section 1 of the resolution, strike added Section 72(e), Article XVI, Texas Constitution (Senate committee printing, page 1, lines 43-50), and substitute the following:

(e) The appropriate authority shall appoint the temporary acting officer to begin service on the date specified in writing by the officer being temporarily replaced as the date the officer will enter active military service.

(3) In Section 2 of the resolution, strike "November 4, 2003" (Senate committee printing, page 2, line 3), and substitute "September 13, 2003".

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

RECORD OF VOTE

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

On motion of Senator Van de Putte and by unanimous consent, the caption was amended to conform to the body of the resolution as amended.

HJR 84 as amended was passed to third reading by a viva voce vote.

RECORD OF VOTES

Senators Ogden and Wentworth asked to be recorded as voting "Nay" on the passage of **HJR 84** to third reading.

HOUSE JOINT RESOLUTION 84 ON THIRD READING

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HJR 84** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 4.

Yeas: Armbrister, Averitt, Barrientos, Bivins, Brimer, Carona, Deuell, Duncan, Ellis, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ratliff, Shapleigh, Staples, Van de Putte, West, Whitmire, Zaffirini.

Nays: Ogden, Shapiro, Wentworth, Williams.

The resolution was read third time and was passed by the following vote: Yeas 27, Nays 4. (Same as previous roll call)

COMMITTEE SUBSTITUTE

HOUSE BILL 3554 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3554** at this time on its second reading:

CSHB 3554, Relating to motor vehicle inspection facilities near the border of this state and Mexico.

The bill was read second time.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3554** on page 1, line 35 by adding new Sections 201.613(b)(1) and (2) as follows:

(b) If a facility that serves a bridge [system] that had more than 900,000 commercial border crossings during the state fiscal year ending August 31, 2002, is to be located in a municipality or a municipality's extraterritorial jurisdiction, the municipality may choose the location of the facility within the municipality or the municipality's extraterritorial jurisdiction. The municipality shall choose a location not later than the 180th day after the date the department makes a request for a location.

(1) Only one inspection facility shall be constructed in the municipality referred to in this subsection.

(2) In determining the location for the border inspection facility, the municipality shall obtain and pay for an independent study completed by a university that conducts transportation studies or any other entity that conducts transportation studies to identify commercial truck traffic patterns for the location at which the facility is to be located and ensure that the location shall have adequate capacity to conduct a sufficient number of meaningful vehicle safety inspections as required by Safety of Cross-Border Trucking Between United States and Mexico, (Pub. L. No. 107-87, Sec. 350(9)) (49 U.S.C. 13902).

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

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 3554** in SECTION 1 of the bill as follows:

(1) In amended Section 201.613(a), Transportation Code (Committee printing page 1, lines 21-24), strike ". To the extent possible, the department shall colocate agencies and utilize intelligent transportation systems in order to expedite the movement of people and vehicles".

(2) In amended Section 201.613(b), Transportation Code (Committee printing page 1, line 34), between "location." and "[The]", insert the following:

(c) To the extent the department considers appropriate to expedite commerce, the department shall provide for implementation by the appropriate agencies of the use of Intelligent Transportation Systems for Commercial Vehicle Operations (ITS/CVO) in:

(1) any new commercial motor vehicle inspection facility constructed; and

(2) any existing facility to which this section applies.

(d) Implementation of systems under Subsection (c) must be based on the Texas ITS/CVO business plan prepared by the department, the Department of Public Safety, and the comptroller. The department shall coordinate with other state and federal transportation officials to develop interoperability standards for the systems.

(e) In implementing systems under Subsection (c) in the construction of a facility, the department to the greatest extent possible shall:

(1) enhance efficiency and reduce complexity for motor carriers by providing:

(A) a single point of contact between carriers and state and federal officials regulating the carriers; and

(B) a single point of information, available to wireless access, about federal and state regulatory and enforcement requirements;

(2) prevent duplication of state and federal procedures and locations for regulatory and enforcement activities, including consolidation of collection of applicable fees;

(3) link information systems of the department, the Department of Public Safety, the comptroller, and, to the extent possible, the United States Department of Transportation and other appropriate regulatory and enforcement entities; and

(4) take other necessary action to:

(A) facilitate the flow of commerce;

(B) assist federal interdiction efforts;

(C) protect the environment by reducing idling time of commercial motor vehicles at the facilities;

(D) prevent highway damage caused by overweight commercial motor vehicles; and

(E) seek federal funds to assist in the implementation of this section.

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

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

CSHB 3554 as amended was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 3554 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3554** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 28, 2003

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 20, Relating to the issuance of certain permits for overweight vehicles; providing a penalty.

SB 25, Relating to the creation, administration, powers, duties, operation, and financing of the Kenedy County Groundwater Conservation District.

SB 88, Relating to the application of the professional prosecutors law to the district attorney for the 25th Judicial District.

SB 176, Relating to the offense of interference with an emergency telephone call.

SB 216, Relating to the disposal by a veterinarian of animal remains and associated medical waste.

SB 292, Relating to the regulation of athlete agents.

SB 356, Relating to forensic anthropologists and to an inquest when a body part is found.

SB 439, Relating to an offense involving a motor vehicle with an altered or obscured license plate.

SB 494, Relating to information provided by certain health benefit plans through the Internet.

SB 581, Relating to an optional discount in homeowners' insurance premiums for the use of an insulating concrete form system.

SB 582, Relating to the consolidation of certain offenses relating to the driving of a motor vehicle while a driver's license or privilege to operate a vehicle is invalid.

SB 599, Relating to investigation and testing, technical assistance, and certain other matters related to indoor air quality in state buildings.

SB 613, Relating to the automatic suspension of the driver's license of a person younger than 21 on conviction of an offense involving an abusable volatile chemical.

SB 769, Relating to the licensing and regulation of surgical assistants.

SB 791, Relating to a program to monitor the collection and remittance of certain court costs and fees.

SB 802, Relating to the use of alternate grand jurors.

SB 805, Relating to donation of certain surplus school district property to preserve the property.

SB 810, Relating to the regulation of social workers; providing a criminal penalty.

SB 815, Relating to the development of essential knowledge and skills for subjects in the enrichment curriculum.

SB 837, Relating to the offense of aggravated sexual assault against a disabled or elderly individual.

SB 879, Relating to appeals of adverse determinations made by health maintenance organizations.

- SB 891**, Relating to the operation of the joint underwriting association under the Texas Medical Liability Insurance Underwriting Association Act.
- SB 905**, Relating to reimbursement for land removed from emergency service districts and dispute resolution relating to the amount of reimbursement.
- SB 1038**, Relating to the transfer of the Communities In Schools program.
- SB 1082**, Relating to loans from the permanent school fund for the acquisition of rights-of-way for the state highway system.
- SB 1114**, Relating to secondary employment by officers commissioned by the Department of Public Safety of the State of Texas.
- SB 1117**, Relating to optional benefits under the Texas school employees uniform group coverage program.
- SB 1127**, Relating to the creation of a coaching education program by the San Antonio Life Sciences Institute.
- SB 1129**, Relating to the admissibility in a criminal proceeding of certain laboratory analyses of physical evidence or statements as to the chain of custody of physical evidence.
- SB 1215**, Relating to changing the deadlines and authority for ordering the election and filing for candidacy in political subdivision elections.
- SB 1245**, Relating to the governance of the Crime Victims' Institute.
- SB 1315**, Relating to the establishment of pharmacy license classifications by the Texas State Board of Pharmacy.
- SB 1367**, Relating to student union fees at component institutions of the Texas Tech University System.
- SB 1419**, Relating to anatomical specimens and donees of anatomical gifts.
- SB 1459**, Relating to access to criminal history record information by a county fire marshal.
- SB 1461**, Relating to the sale of used fire-fighting equipment to certain volunteer fire departments.
- SB 1481**, Relating to the repeal of the Caddo Lake Compact.
- SB 1559**, Relating to the confidentiality of and access to certain personal information contained in instruments recorded with a county clerk.
- SB 1571**, Relating to the regulation of dental laboratories and dental technicians.
- SB 1643**, Relating to the appointment of election officers for a central counting station for certain elections.
- SB 1794**, Relating to the criminal law magistrates in Travis County.
- SB 1805**, Relating to the enforcement of child support obligations, including interstate enforcement.

SB 1807, Relating to the establishment and adjudication of certain parent-child relationships.

SB 1811, Relating to service of process and to the ability to sue and be sued of a sports and community venue district.

SB 1826, Relating to certain violations under the Texas Food, Drug, and Cosmetic Act; providing penalties.

SB 1876, Relating to the conditional grant program administered by the Texas Department of Transportation.

SB 1915, Relating to the terms of court of the 9th Judicial District.

SB 1928, Relating to the boundaries of the Athens Municipal Water Authority.

SB 1935, Relating to the law governing the Brazos River Authority and the law governing the Lower Colorado River Authority.

SB 1940, Relating to the County Court at Law of Aransas County.

SCR 20, Memorializing Congress to fund one-stop border vehicle inspection facilities.

SCR 49, Requesting the lieutenant governor and the speaker to create a joint interim committee to study issues related to nutrition among Texas public school children.

SCR 51, Commemorating the 150th anniversary of the King Ranch.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

COMMITTEE SUBSTITUTE
HOUSE JOINT RESOLUTION 28 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHJR 28** at this time on its second reading:

CSHJR 28, Proposing a constitutional amendment providing for authorization of the borrowing of money on a short-term basis by a state transportation agency for transportation-related projects, and the issuance of bonds and other public securities secured by the state highway fund.

The resolution was read second time.

Senator Ogden offered the following amendment to the resolution:

Floor Amendment No. 1

Amend **CSHJR 28** (committee printing) on page 2, line 11, by striking "November 4" and substituting "September 13".

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

RECORD OF VOTE

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

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

CSHJR 28 as amended was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE JOINT RESOLUTION 28 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHJR 28** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The resolution was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 3526 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3526** at this time on its second reading:

HB 3526, Relating to the establishment of the research development fund to promote research at certain institutions of higher education and to the abolition of the Texas excellence fund and the university research fund.

The bill was read second time.

Senator Harris offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3526** by deleting Sec. 62.096 and substituting the following:

Sec. 62.096. VERIFICATION OF ALLOCATION FACTORS. (a) For purposes of this subchapter, the coordinating board shall prescribe standards and accounting methods for determining the amount of restricted research funds expended by an eligible institution in a state fiscal year.

(b) The coordinating board shall convene a committee comprised of persons designated by the presidents of eligible institutions to approve the allocations standards and accounting methods established by the coordinating board by October 1, 2003.

(c) The coordinating board, as soon as practicable in each state fiscal year and no later than November 1, shall provide the comptroller with verified information relating to the amounts of restricted research funds expended by eligible institutions as necessary to determine the apportionment of the research development fund under this subchapter for that fiscal year.

(d) The coordinating board may audit the appropriate records of an eligible institution to verify information for purposes of this subchapter.

(e) An eligible institution may appeal the coordinating board's decision regarding the institution's verified information relating to the amounts of restricted research expended to the advisory committee for final determination of eligibility.

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

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

HB 3526 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 3526 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3526** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

COMMITTEE SUBSTITUTE HOUSE BILL 3318 ON SECOND READING

On motion of Senator Bivins and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3318** at this time on its second reading:

CSHB 3318, Relating to the creation and re-creation of funds and accounts in the state treasury, the allocation of revenue, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.

The bill was read second time.

Senator Bivins offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3318** (Senate committee printing) as follows:

(1) Add the following appropriately numbered section:

SECTION _____. CERTAIN EXEMPT DEDICATIONS, FUNDS, AND ACCOUNTS. Funds and accounts created or re-created in the state treasury by any of the following Acts of the 78th Legislature, Regular Session, 2003, that become law and any dedication or rededication of revenue in the state treasury or otherwise by any of the following Acts of the 78th Legislature, Regular Session, 2003, that become law are exempt from Section 2 of this Act:

(1) H.B. Nos. 462, 1989, 2019, 2292, 2926, 3126, and 3588; and

(2) S.B. Nos. 104, 280, 652, 699, and 945.

(2) Strike Section 7 of the bill (page 2, lines 14-21) and substitute the following appropriately numbered Section:

SECTION _____. LICENSE PLATE FEES. Any dedication of revenue that consists of fees collected from the sale of motor vehicle license plates that are authorized by an Act of the 78th Legislature, Regular Session, 2003, that becomes law

is exempt from Section 2 of this Act and any fund or account created or re-created in connection with that revenue by operation of the Act authorizing the license plates is exempt from Section 2 of this Act.

(3) Strike Section 25 of the bill (page 3, lines 57-62) and renumber the remaining Sections of the bill accordingly.

The floor amendment was read and was adopted without objection.

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 3318** by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ____ . FAIR DEFENSE. The fair defense account, created in Section 71.058, Government Code, by Section 14, Chapter 906, Acts of the 77th Legislature, Regular Session, 2001, is re-created by this Act. Section 2 of this Act does not apply to the account and does not apply to the dedication of revenue to that account.

The floor amendment was read and was adopted without objection.

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

CSHB 3318 as amended was passed to third reading without objection.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3318 ON THIRD READING**

Senator Bivins moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3318** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 471 ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 471** at this time on its second reading:

CSHB 471, Relating to the borrowing of money and the issuance of notes and bonds and other public securities secured by the state highway fund by the Texas Transportation Commission; making an appropriation.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 471** (committee printing) as follows:

1. On page 2, line 52, strike "\$10 billion." and substitute "\$5 billion."

2. On page 3, line 14, strike "\$2 billion" and substitute "\$1 billion."

The floor amendment was read and was adopted without objection.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 471** by adding a new Section 4 and renumber subsequent sections accordingly:

SECTION 4. Title 3, Transportation Code, is amended by adding Chapter 27 to read as follows:

CHAPTER 27. AIRPORT AUTHORITIES SUBCHAPTER A. GENERAL PROVISIONS

Sec. 27.001. LEGISLATIVE DECLARATION. (a) The economic well-being of the state and the general welfare of its residents require adequate, safe, secure, and efficient aviation facilities at a reasonable cost.

(b) The purpose of this chapter is to authorize the creation by the state, counties, and municipalities, through their independent or joint action, airport authorities, corporate and politic, constituting political subdivisions of the state, for the purpose of:

(1) acquiring and improving airports, heliports, air navigation facilities, and related facilities;

(2) financing the cost of the activities listed under Subdivision (1) by the issuance of bonds or other obligations of an authority payable from the income of the authority and otherwise secured to the extent permitted by law without the incurrence of debt by the state or by a political subdivision; and

(3) promoting and facilitating transportation by air from or to points located within the state, to the benefit and general welfare of the state, including its political subdivisions and inhabitants.

Sec. 27.002. DEFINITIONS. In this chapter:

(1) "Aircraft" means a contrivance invented, used, or designed for navigation of or flight in the air, except a parachute or other contrivance designed for use primarily as safety equipment.

(2) "Air navigation facility" means a facility used in, available for use in, or designed for use in aid of air navigation, including a structure, mechanism, light, beacon, marker, communicating system, or other instrumentality or device used or useful as an aid or constituting an advantage or convenience to the safe taking-off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport or heliport, including any combination of facilities listed above.

(3) "Airport" means an area of land or water that is used, or intended for use, for the landing, taking-off, storage, parking, or dispersal of aircraft, including:

(A) any appurtenant areas that are used or intended for use for airport buildings, facilities, or rights-of-way; and

(B) airport buildings, structures, and facilities located on the area of land or water.

(4) "Airport building" means a building used or to be used in connection with:

(A) the construction, enlargement, development, maintenance, or operation of an airport or heliport; or

(B) the exercise of any power of the authority.

(5) "Airport facility" means a building, structure, land, right-of-way, equipment, or instrumentality used or to be used in connection with the construction, enlargement, development, maintenance, or operation of an airport or heliport.

(6) "Airport hazard" means a structure, object of natural growth, or use of land that:

(A) obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or heliport; or

(B) is otherwise hazardous to the flight of aircraft in landing or taking off at an airport or heliport.

(7) "Authority" means a public corporation organized under this chapter.

(8) "Board" means the board of directors of an authority.

(9) "Bond" means a bond authorized to be issued under this chapter.

(10) "Coupon" means an interest coupon evidencing an installment of interest payable with respect to a bond.

(11) "Director" means a member of the board of directors of an authority.

(12) "Heliport" means an airport designed primarily for use by helicopters.

(13) "Indenture" means a mortgage, indenture of mortgage, deed of trust, trust agreement, or trust indenture executed by an authority as security for bonds.

[Sections 27.003-27.030 reserved for expansion]

SUBCHAPTER B. INCORPORATION AND ADMINISTRATION OF AUTHORITY

Sec. 27.031. INCORPORATION. (a) An authority may be organized as a public corporation under this chapter.

(b) At least three natural persons shall file with the governing body of one or more counties or municipalities an application in writing for permission to incorporate a public corporation under this chapter and shall attach to the application a proposed form of articles of incorporation for the corporation.

(c) If each governing body with which the application is filed adopts a resolution approving the form of the articles of incorporation and authorizing the formation of a public corporation, the applicants under Subsection (b) become the incorporators of and shall incorporate the authority as a public corporation under this chapter using the form of the articles approved.

Sec. 27.032. ADDITIONAL COUNTIES OR MUNICIPALITIES. An additional county or municipality may become part of an authority if each additional county or municipality and each county or municipality in the authority adopts a resolution consenting to the inclusion of the additional county or municipality in the authority.

Sec. 27.033. INCLUSION IN AUTHORITY. On the inclusion of a county or municipality in an authority, either initially or as an additional member, all rights, contracts, obligations, and property, both real and personal, of a municipality or county used for or in relation to transportation by air shall vest in the authority created under this subchapter unless otherwise specified by the resolution including the municipality or county in the authority.

Sec. 27.034. STATE JOINING AN AIRPORT AUTHORITY. The governor, on behalf of the state, may authorize the state to join in the creation of an authority under this subchapter or to join an existing authority created under this subchapter.

Sec. 27.035. WITHDRAWAL FROM AUTHORITY. (a) After the organization of an airport authority by more than one governmental entity, a county or municipality in an authority may withdraw from the authority by resolution of the commissioners court of the county or governing body of the municipality.

(b) A withdrawing county or municipality may not claim or remove an asset of the authority.

Sec. 27.036. CONTENTS OF CERTIFICATE OF INCORPORATION. The certificate of incorporation of an authority shall state:

(1) the name and county of residence of each person forming the authority;

(2) the name of the authority which must include the words "airport authority";

(3) the duration of the authority or if the duration is perpetual, the fact that the authority is of perpetual duration;

(4) the names of the governmental entities in the authority and the date on which the:

(A) governing body of the county or municipality adopted the resolution authorizing the incorporation of the authority or consenting to the inclusion of the county or authority; or

(B) governor authorized the state to join in the creation of an authority or an existing authority;

(5) the proposed location in this state of the principal office of the authority;
and

(6) any other matters relating to the authority that the incorporators choose to insert and that are not inconsistent with this chapter or the laws of this state.

Sec. 27.037. INCORPORATION; EXECUTION AND FILING OF ARTICLES.

(a) The articles of incorporation of an authority shall:

(1) be signed and acknowledged by the incorporators; and

(2) have attached a certified copy of each of the resolutions provided for in Section 27.031.

(b) The articles of incorporation of an authority and the documents required to be attached under Subsection (a) shall be filed with the secretary of state.

(c) When a certificate of incorporation is issued by the secretary of state after the filing of the articles and attached documents, the authority referred to in the certificate shall:

(1) come into existence;

(2) constitute a public corporation under the name listed in the certificate;
and

(3) have all the rights and powers given to authorities under this chapter.

Sec. 27.038. BOARD OF DIRECTORS. (a) The governing body of an authority is a board with at least five but no more than nine members appointed as follows:

(1) if the state alone authorizes an authority, the members shall be elected by the governor, the lieutenant governor, and the speaker of the house of representatives with the total number of members to be set out in the articles of incorporation of the authority;

(2) if the sole authorizing governmental entity is a county, the commissioners court of the county shall elect the members with the number of members to be set out in the articles of incorporation of the authority; and

(3) in all other cases:

(A) one member shall be elected by each governing body of an authorizing governmental entity;

(B) one member shall be elected by the commissioners court of the county in which the principal office of the authority is located, if the county is not an authorizing governmental entity; and

(C) one additional member shall be elected by the governing bodies of each authorizing governmental entity and the commissioners court of the county in which the principal office of the authority is located.

(b) Each member elected by a governing body of an authorizing governmental entity must be a resident of the authorizing governmental entity. The additional member elected under Subsection (a)(3)(C) may be a resident of any county electing the member.

(c) Other than the additional member elected under Subsection (a)(3)(C), each authorizing governmental entity may elect the same number of members as any other authorizing governmental entity.

(d) A board member is eligible for re-election.

(e) If the state joins in the creation of an airport authority under this subchapter or joins an existing airport authority created under this subchapter, the state is entitled to the number of board members agreed on by the authorizing governmental entities and the state, but is entitled to at least one board member. A board member representing the state shall be appointed by the governor.

(f) The board may employ and set the compensation of necessary personnel.

Sec. 27.039. VACANCY; IMPEACHMENT. (a) Except as provided by Subsection (b), if a board member resigns, dies, or becomes incapable or ineligible to act as a board member, a successor to serve the unexpired portion of the board member's term shall be elected in the same manner provided by Section 27.038 as the board member whose unexpired term the successor is filling.

(b) If a vacancy in the office of the additional member elected under Section 27.038(a)(3)(C) continues for more than 30 days, the governor shall, on the request of any governmental entity that elected the member, appoint a successor.

(c) A board member may be impeached and removed from office.

Sec. 27.040. ELIGIBILITY. An officer of the state, a county, or a municipality is not eligible to serve as a board member.

Sec. 27.041. TERMS. (a) The term of office of a board member shall be set out in the articles of incorporation of an authority.

(b) Board members serve staggered terms so that the term of at least one member expires each year.

Sec. 27.042. QUORUM. (a) Except as provided by Subsection (b), a majority of the board members constitutes a quorum for the transaction of business.

(b) A meeting of a board may be adjourned by a majority of the board members present or may be adjourned by a single board member if the member is the only board member present at the meeting.

(c) A vacancy in the board shall not impair the right of a quorum to exercise all the powers and duties of an authority.

Sec. 27.043. MEETINGS. (a) A board shall hold regular monthly meetings and any other meeting as provided for in the bylaws of the authority.

(b) A board may hold a special meeting at the call of the chair of the authority or two board members.

(c) Any matter on which the board is authorized to act may be acted upon at a regular or special meeting.

(d) At the request of a board member, the vote on a question before a board shall be taken by yeas and nays and entered upon the record. All proceedings of a board shall be reduced to writing by the secretary of the authority and open to board members and to the public at all times. Copies of the proceedings, when certified by the secretary of an authority under its seal, are admissible in a court as evidence of the matters certified in the proceedings.

Sec. 27.044. COMPENSATION. A board member is not entitled to receive compensation but is entitled to reimbursement for actual and necessary expenses.

Sec. 27.045. OFFICERS. (a) Officers of the board consist of a chair, vice chair, secretary, and any other officer the board considers necessary.

(b) The board shall elect from the members of the board a chair, vice chair, and secretary for a term of one year.

(c) The treasurer and any other officers a board considers necessary need not be members of the board and shall be elected by the board for terms determined by the board.

(d) The offices of secretary and treasurer may be held by the same person.

Sec. 27.046. TAX EXEMPTION; BONDS, PROPERTY, INCOME. (a) Bonds issued by an authority and the income on the bonds are exempt from all state taxation.

(b) All property and income of an authority are exempt from all state, county, municipal, and other local taxation.

(c) Subsection (b) does not exempt concessionaires, licensees, tenants, operators, or lessees of an authority from the payment of any taxes, including licenses or privilege taxes levied by the state, a county, or a municipality.

Sec. 27.047. TAX EXEMPTION; ACCESS TO AIRPORTS. A county or municipality may not require the payment of any tax or privilege license from a person, firm, or corporation for the reasonable use of public streets, roads, or highways leading to or from an airport, heliport, or aircraft landing area owned or operated by or under the jurisdiction of an authority.

Sec. 27.048. ZONING. (a) An authority is exempt from zoning laws, ordinances, and regulations.

(b) An authority has the same zoning powers with respect to the zoning of an airport in an unincorporated area owned or operated by the authority and the zoning of the unincorporated area lying within two miles of the boundaries of the airport as a municipality that owns or operates an airport.

Sec. 27.049. GENERAL POWERS. An authority may:

(1) have succession by its corporate name for the duration of time specified in the articles of incorporation;

(2) sue and be sued in its own name in civil suits and actions, except actions in tort against the authority;

(3) adopt and make use of a corporate seal;

(4) adopt and alter bylaws for the regulation and conduct of its affairs and business;

(5) acquire, receive, take, and hold, by purchase, gift, lease, devise, or other means, property, regardless of whether in one or more counties or within or outside the corporate limits of an authorizing governmental entity, and manage the property, including developing undeveloped property owned, leased, or controlled by the authority;

(6) execute a contract or other instrument;

(7) enter on land, water, and premises for the purposes of making surveys, soundings, and examinations;

(8) plan, establish, develop, acquire, construct, enlarge, improve, maintain, equip, operate, regulate, and protect an airport and air navigation facility, including the:

(A) acquisition, construction, installation, equipment, maintenance, and operation at, in connection with, or in furtherance of the use at an airport of sanitary and storm sewage systems and water, electric, and gas systems, buildings, hangars, and other facilities for:

(i) airlines, U.S. military aircraft, and general aviation aircraft; or

(ii) the comfort, use, and accommodation of air travelers; and

(B) purchase and sale of supplies, goods, and commodities incident to the operation of an airport property;

(9) construct, acquire, establish, improve, extend, enlarge, reconstruct, equip, maintain, repair, and operate a heliport, an aerial aircraft landing, loading, or storage area, and a transportation terminal;

(10) construct, acquire, establish, improve, extend, enlarge, reconstruct, equip, maintain, and repair a building, structure, or facility that is suitable for use as a manufacturing plant, industrial plant, retail shopping area, park, exhibit, or for the conduct of lawful business at, on, or adjacent to an airport, heliport, or aircraft landing area owned or operated by the authority;

(11) lease a building, structure, or facility described in Subdivision (10) to a tenant under terms approved by the authority;

(12) for compensation, furnish or supply on an airport, heliport, or aircraft landing area owned or operated by or under the jurisdiction of the authority, to persons and aircraft, goods, commodities, area facilities, and services convenient or useful to the owners, operators, and users of aircraft and to persons at the airport, heliport, or aircraft landing area, including food, lodging, shelter, drinks, confections,

reading matter, oil, gasoline, jet fuel, motors, engines, aircraft, aircraft parts and equipment, space in buildings, space for buildings and structures, and the services of mechanics and instructors;

(13) confer on an individual, firm, corporation, or company, for compensation, the privilege or concession of supplying on an airport, heliport, or aircraft landing area owned or operated by or under the jurisdiction of the authority, all of the items to be furnished or supplied under Subdivision (12);

(14) acquire, including by eminent domain, establish, construct, expand, own, control, equip, improve, maintain, operate, and regulate a satellite airport or landing field for the use of aircraft in the state;

(15) acquire, including by purchase, gift, devise, lease, or eminent domain proceedings, an existing airport and air navigation facility with the consent of the county, municipality, or public agency of the state that owns or controls the airport and air navigation facility;

(16) issue interest-bearing bonds payable from the limited sources available under this chapter;

(17) pledge for payment of bonds any revenues and funds from which the bonds are made payable;

(18) enter into a contract, lease, or agreement incidental to or necessary for the accomplishment of any purpose for which the authority was organized;

(19) exercise the power of eminent domain with respect to property, including airspace, air navigation easements, structures, obstructions to flight, and property already devoted to public use that reasonably may be necessary for the construction, extension, maintenance, operation, protection, enlargement, improvement, or preservation of an airport or airport facility or sanitary or storm sewage systems water, electric, and gas systems on, adjacent to, or in connection with or for the furtherance of the use of an airport, heliport, aircraft landing area, or other property owned by or operated by the authority;

(20) appoint, employ, contract with, and compensate officers, employees, and agents, including engineers, security officers and guards, attorneys, consultants, fiscal advisers, and other employees the authority may require;

(21) fix, establish, collect, and alter landing fees, tolls, rents, and other charges for the use of an airport, heliport, landing area, building, structure, facility, or other property owned or controlled by the authority;

(22) make and enforce rules governing the use of an airport, heliport, landing area, or airport facility owned or controlled by the authority;

(23) provide for insurance, including use and occupancy insurance, as determined by the board;

(24) invest funds of the authority that the board determines are not presently needed for its corporate purposes in:

(A) a direct general obligation of the United States;

(B) an obligation that is unconditionally guaranteed as to both principal and interest by the United States; or

(C) bonds of the state, a county, or a municipality;

(25) contract with the state, a county, a municipality, a public corporation, an agency, a department, or other political subdivision of this state if the board determines that the contract accomplishes the purposes for which the authority was established;

(26) sell and convey property that is obsolete, worn out, or no longer needed or useful;

(27) receive and accept for the construction, extension, improvement, maintenance, or operation of an airport, heliport, or airport facility money, property, labor, or other thing of value from any source, including grants from the United States, the state, or any political subdivision of the state;

(28) purchase services, equipment, and supplies necessary or convenient for the exercise of any power of the authority;

(29) enter into a management agreement with a county or municipality for the management by the authority of an airport, heliport, air navigation facility, or other facility useful to the authority; and

(30) take any other action necessary or convenient to carry out the purposes of this chapter or the exercise of a power granted under this chapter.

Sec. 27.050. LIMITATION ON POWER. An authority may not acquire by eminent domain real property or rights owned or held by a railroad or utility.

Sec. 27.051. MUNICIPAL VOTE REQUIRED. Before an authority may own, acquire, construct, or operate an airport or an airport facility within the corporate limits of a municipality, a majority of the governing body of the municipality must vote in favor of the proposed airport or airport facility.

Sec. 27.052. PEACE OFFICERS. (a) The authority may employ security officers who have obtained a peace officer license issued by the Commission on Law Enforcement Officer Standards and Education.

(b) A court of a municipality that is an authorizing governmental entity has jurisdiction over a misdemeanor committed on the property of an authority.

(c) A county that is an authorizing governmental entity has jurisdiction over a misdemeanor committed on the property of an authority if there is no authorizing municipality.

Sec. 27.053. FUNDING. (a) An authority is authorized to accept, receive, disburse, and expend federal money, state money, and any other money made available by grant or loan to accomplish a purpose of this chapter.

(b) Federal money accepted under this section shall be accepted and expended by an authority on terms prescribed by the United States that are not inconsistent with the laws of this state.

Sec. 27.054. ASSISTANCE BY STATE OR LOCAL ENTITIES. A county, municipality, or other political subdivision of the state, including a public corporation, may, with or without consideration:

(1) lend or donate money to an authority;

(2) provide that all or part of the taxes or funds available to it or required by law to be used by it for airport purposes shall be transferred or paid directly to an authority;

(3) cause water, sewer, or drainage facilities or any other facilities that it is empowered to provide to be furnished adjacent to or in connection with an airport, heliport, or air navigation facility;

(4) donate, sell, convey, transfer, or lease to an authority any land, property, franchise, grant, easement, license, or lease that it owns;

(5) donate, sell, convey, or lease an airport, airport property, heliport, heliport property, or any interest in an airport, airport property, heliport, or heliport property owned by it to an authority;

(6) donate, transfer, assign, sell, or convey to an authority any right, title, or interest that it has in a lease, contract, agreement, license, or property;

(7) furnish, dedicate, close, pave, repair, install, grade, regrade, plan, or replan streets, roads, roadways, and walks:

(A) from established streets or roads to an airport or air navigation facility; or

(B) abutting or adjacent to an airport or air navigation facility;

(8) take any other action that is necessary or convenient to aid and cooperate with an authority in the planning, undertaking, construction, or operation of an airport, heliport, or air navigation facility; and

(9) furnish, at the request of an authority, fire and air crash equipment and personnel to properly operate the equipment at an airport, heliport, or aircraft landing area owned, operated, or under the jurisdiction of an authority or train authority personnel in fire, crash, and rescue.

Sec. 27.055. DISSOLUTION. (a) If an authority does not have outstanding bonds, the authority may be dissolved on the filing of articles of dissolution with the secretary of state that shall be sworn to and subscribed by each member of the authority.

(b) On issue of a certificate of dissolution by the secretary of state, an authority ceases to exist. On dissolution, all rights, titles, and interests of the authority in property:

(1) vest in the authorizing governmental entities as provided by the articles of incorporation; or

(2) if not provided for in the articles of incorporation, vest in the authorizing governmental entities equally.

Sec. 27.056. CONTRACT VALIDATION. A contract entered into or a legal action instituted by a de facto or de jure authority is validated.

[Sections 27.057-27.100 reserved for expansion]

SUBCHAPTER C. BONDS

Sec. 27.101. GENERAL PROVISIONS. (a) An authority may issue interest-bearing revenue bonds for any of its corporate purposes.

(b) The principal of and the interest on bonds is payable solely from and may be secured by a pledge of the revenues derived by an authority from the operation of authority airports, heliports, facilities, and other property.

(c) Bonds issued or contracts entered into by an authority under this chapter do not create debt of the state, a county, or a municipality and do not create a charge against the credit or taxing powers of the state, a county, or a municipality.

Sec. 27.102. BONDS ISSUED. (a) Board proceedings shall determine how bonds are issued, including the following matters:

(1) whether the bonds are issued at any time and from time to time;

(2) bond form and denominations;

(3) bond tenor, payable in installments, and at times not to exceed 40 years from the date of issue;

(4) place of issue; and

(5) rate of interest.

(b) A bond having a stated maturity date more than 10 years after its date of issue shall be made subject to redemption at the option of an authority not later than the 10th anniversary of its date of issue and on any interest payment date after that time at a price, after notice, on terms, in the manner provided in the board proceeding that authorized the bond issuance.

(c) Bonds of an authority may be sold at public or private sale in the manner and from time to time as may be determined by the board.

(d) An authority may pay all reasonable expenses, premiums, fees, and commissions that the board determines are necessary or advantageous in connection with the authorization, sale, and issuance of bonds.

(e) Bonds must contain a recital that the bonds are issued under this chapter.

(f) A public hearing is not required for the issuance of bonds by an authority.

(g) Notwithstanding the fact that they are payable solely from a specified source, bonds issued under this chapter are negotiable instruments within the meaning of the negotiable instruments law of this state if the bonds otherwise possess all the characteristics of a negotiable instrument under the law of this state.

Sec. 27.103. NOTICE; CHALLENGES. (a) On the adoption of a resolution providing for the issuance of bonds, an authority may publish, once a week for two consecutive weeks, in a newspaper that is distributed in the county in which the principal office of the authority is located, notice in substantially the following form at the end of which shall be printed the name and title of either the chair or secretary of the authority:

" _____, a public corporation of the State of Texas, on the _____ day of _____ authorized the issuance of \$ _____ principal amount of revenue bonds of the corporation for purposes authorized in the Act of the Legislature of Texas under which the corporation was organized. Any action or proceeding questioning the validity of the bonds, or the pledge and any instruments securing the bonds, or the proceedings authorizing the bonds, must be commenced within 20 days after the first publication of this notice."

(b) An action or proceeding in a court to set aside or question the proceedings for the issuance of bonds referred to in a notice under Subsection (a) or to contest the validity of the bonds or the validity of the pledge and any instruments made to secure the bonds must be commenced before the 31st day after the date of first publication of the notice.

(c) After the 30-day period described under Subsection (b) expires:

(1) a right of action or defense questioning or attacking the validity of the proceedings, bonds, pledge, or instruments may not be asserted; and

(2) the validity of the proceedings, bonds, pledge, or instruments are not open to question in a court on any ground.

Sec. 27.104. EXECUTION AND DELIVERY. (a) Bonds shall be signed by the chair or vice chair and by the secretary or treasurer of an authority. The signature of one of the officers whose signatures will appear on the bonds may be imprinted or otherwise reproduced.

(b) The seal of an authority shall be affixed onto the bonds or a facsimile of the seal of an authority shall be imprinted or otherwise reproduced on the bonds.

(c) Coupons shall be signed by the chair or vice chair and by the secretary or treasurer of an authority. The signature of the secretary or treasurer may be imprinted or otherwise reproduced.

(d) Delivery of bonds executed as provided under this section is valid notwithstanding any changes in officers or in the authority seal after the signing and sealing of the bonds.

Sec. 27.105. SECURITY. (a) At the discretion of an authority, bonds may be issued under and secured by an indenture between the authority and a trustee. A trustee may be a private person or corporation, including a trust company or bank having trust powers.

(b) In an indenture or resolution providing for the issuance of bonds, the authority may:

(1) pledge, for payment of the principal of and the interest on bonds, authority revenues;

(2) assign, as security for payment, a lease, franchise, permit, or contract;
and

(3) mortgage a property.

(c) A pledge of revenues shall be valid and binding from the time it is made. Pledged revenues received after the pledge by an authority immediately become subject to the lien of the pledge without physical delivery or further act. The lien of the pledge is valid and binding against a party having a claim of any kind against the authority, regardless of whether the party has actual notice of the lien, from the time a statement is filed in the office of the county clerk of:

(1) the county in which the principal office of the authority is located; or

(2) a county in which any part of the property, the revenues from which are pledged, is located.

(d) A statement under Subsection (c) must contain:

(1) the date on which a resolution authorizing the issuance of bonds was adopted by a board;

(2) the principal amount of bonds issued;

(3) a brief description of the revenues pledged; and

(4) a brief description of property the revenues from which are pledged.

(e) In an indenture or resolution pledging revenues from an airport, heliport, building, or facility, an authority may include provisions customarily contained in instruments securing evidence of indebtedness, including provisions relating to:

(1) the collection, segregation, and application of rental or other revenue due or to become due to the authority;

(2) the terms to be incorporated in a lease agreement pertaining to authority property;

(3) the maintenance and insurance of a building or structure owned by the authority;

(4) the creation and maintenance of special funds from revenue of the authority;

(5) the rights and remedies available in the event of default to the holder of the bonds or the trustee under the indenture; and

(6) restricting the individual rights of action of the holders of the bonds and coupons.

(f) If an authority defaults in payment of the principal of or interest on bonds or in an agreement included in an indenture securing the bonds, a holder of the bonds or any of the coupons, or the trustee under an indenture if authorized in the indenture:

(1) may enforce payment of the principal or interest by civil action, mandamus, or other proceeding;

(2) may compel performance of a duty of the board and officers of the authority; and

(3) shall be entitled as a matter of right and regardless of the sufficiency of the security to the appointment of a receiver with all the powers of a receiver for the:

(A) operation and maintenance of the property of the authority covered by the indenture; and

(B) collection, segregation, and application of revenues from property of the authority covered by the indenture.

Sec. 27.106. PROCEEDS. (a) Proceeds derived from the sale of bonds may be used only to pay the cost of acquiring, constructing, improving, enlarging, and equipping an airport, facility, or property as specified in the proceedings in which the bonds are authorized to be issued.

(b) Eligible costs under Subsection (a) include:

(1) the cost of land forming a part of an airport, facility, or property;

(2) the cost of labor, material, and supplies used in the construction, improvement, or enlargement, including architects' and engineers' fees and the cost of preparing contract documents and advertising for bids;

(3) the purchase price of and the cost of installing equipment for the airport, facility, or property;

(4) the cost of landscaping the lands forming a part of an airport, facility, or property, and of constructing roads, sidewalks, curbs, gutters, utilities, and parking places in connection with an airport, facility, or property;

(5) legal, fiscal, and recording fees and expenses incurred in connection with the authorization, sale, and issuance of bonds issued in connection with an airport, facility, or property; and

(6) interest on bonds issued in connection with an airport, facility, or property for a reasonable period before and during the time required for the construction and equipment not to exceed 18 months after the date of completion of the construction and equipment.

(c) If any proceeds derived from the sale of bonds remain undisbursed after completion of the work described under Subsection (a) and payment of costs under Subsection (b), the proceeds shall be used for retirement of the principal of the bonds of the same issue.

Sec. 27.107. REFUNDING BONDS. (a) An authority may at any time and from time to time issue refunding bonds for the purpose of:

(1) refunding the principal of and interest on outstanding bonds of the authority regardless of whether the principal and interest have matured at the time of the refunding; and

(2) paying the expenses incurred in connection with the refunding and any premium necessary to be paid to redeem, retire, or purchase for retirement the bonds to be refunded.

(b) Proceeds derived from the sale of refunding bonds may be used only for the purposes for which the refunding bonds were authorized to be issued.

(c) Refunding may be effected:

(1) by sale of the refunding bonds and the application of the proceeds; or

(2) by exchange of the refunding bonds for the bonds or interest coupons to be refunded, except that the holders of the bonds or coupons to be refunded may not be compelled without their consent to surrender their bonds or coupons for payment or exchange before the date on which they may be paid or redeemed by call of the authority under their respective provisions.

(d) This subchapter applies to refunding bonds to the extent the provisions are consistent with this section.

(e) If an authority issues bonds for the purpose of refunding the principal of and interest on any of its bonds or for any other purpose for which it is authorized to issue bonds, this section applies only to the portion of the combined issue authorized for refunding purposes, and the rest of this subchapter applies to the remaining portion of the combined issue.

Sec. 27.108. LOCAL GOVERNMENT INVESTMENT. A governing body of a county or municipality may invest idle or surplus money held in its treasury in bonds of an authority.

Sec. 27.109. LEGAL INVESTMENTS. (a) Bonds issued under this subchapter are legal investments for executors, administrators, trustees, and other fiduciaries, unless otherwise directed by the court having jurisdiction of the fiduciary relation or by the document that is the source of the fiduciary's authority.

(b) Bonds issued under this subchapter are legal investments for savings banks and insurance companies organized under the laws of this state.

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, 2003.

The floor amendment was read.

POINT OF ORDER

Senator Ogden raised a point of order that Floor Amendment No. 2 was not germane to the body of the bill.

On motion of Senator Ogden, the point of order was withdrawn.

On motion of Senator Wentworth, Floor Amendment No. 2 was withdrawn.

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

CSHB 471 as amended was passed to third reading by a viva voce vote.

COMMITTEE SUBSTITUTE HOUSE BILL 471 ON THIRD READING

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 471** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

COMMITTEE SUBSTITUTE HOUSE BILL 2020 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2020** at this time on its second reading:

CSHB 2020, Relating to financial security requirements for certain persons performing operations within the jurisdiction of the Railroad Commission of Texas.

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

COMMITTEE SUBSTITUTE HOUSE BILL 2020 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2020** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1538 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1538** be placed on its third reading and final passage:

CSHB 1538, Relating to the continuation and functions of the Texas Funeral Service Commission, including certain functions transferred to the commission from the Texas Department of Health, and the powers and duties of the Texas Finance Commission and the banking commissioner of Texas regarding cemeteries; providing administrative and civil penalties.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time.

Senator Gallegos offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1538** by adding a new subsection to read as follows:

Chapter 712, Health and Safety Code, is amended to add a new section to read as follows:

SECTION _____. RESALE OF PLOTS. (a) A corporation shall not resell a burial plot in a perpetual care cemetery that has previously been sold and used for burial purposes.

The floor amendment was read and was adopted by without objection.

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

CSHB 1538 as again amended was finally passed by a viva voce vote.

HOUSE BILL 325 ON SECOND READING

On motion of Senator Estes and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 325** at this time on its second reading:

HB 325, Relating to the punishment for the offense of failure to identify.

The bill was read second time.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 325** (Senate committee printing) by adding new SECTION 2 and renumbering subsequent sections accordingly.

SECTION 2. Chapter 38, Penal Code, is amended by adding Section 38.171 to read as follows:

Sec. 38.171. FAILURE TO REPORT FELONY. (a) A person commits an offense if the person:

(1) observes the commission of a felony under circumstances in which a reasonable person would believe that an offense had been committed in which serious bodily injury or death may have resulted; and

(2) fails to immediately report the commission of the offense to a peace officer or law enforcement agency under circumstances in which:

(A) a reasonable person would believe that the commission of the offense had not been reported; and

(B) the person could immediately report the commission of the offense without placing himself or herself in danger of suffering serious bodily injury or death.

(b) An offense under this section is a Class A misdemeanor.

The floor amendment was read and was adopted without objection.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 325** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, strike the recital to SECTION 1 (page 1, lines 10-11) and substitute the following:

Section 38.02, Penal Code, is amended by amending Subsections (c) and (d) and adding Subsection (e) to read as follows:

(2) In SECTION 1 of the bill, in amended Subsection (c), Section 38.02, Penal Code (page 1, line 12), strike "Subsection (d)" and insert "Subsections [~~Subsection~~ (d) and (e)]".

(3) In SECTION 1 of the bill, following amended Subsection (d), Section 38.02, Penal Code (page 1, between lines 24 and 25), insert:

(e) If conduct that constitutes an offense under this section also constitutes an offense under Section 106.07, Alcoholic Beverage Code, the actor may be prosecuted only under Section 106.07.

The floor amendment was read and was adopted without objection.

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

HB 325 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 325 ON THIRD READING

Senator Estes moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 325** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 2455 ON SECOND READING**

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2455** at this time on its second reading:

CSHB 2455, Relating to the governmental entities subject to, and the confidentiality of records under, the sunset review process.

The bill was read second time.

Senator Nelson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2455** as follows:

(1) In Section 1.01 of the bill, in added Section 19.0021(b)(1), Education Code, immediately before "review" (Senate committee printing, page 1, line 23), add "limited scope".

(2) In Section 1.01 of the bill, in added Section 19.0021, Education Code (Senate committee printing, page 1, between lines 26 and 27), add a new Subsection (c) to read as follows and reletter the existing Subsections (c) and (d) appropriately:

(c) The Texas Education Agency shall consult the Sunset Advisory Commission regarding the scope of the review to minimize the cost of the review.

The floor amendment was read and was adopted without objection.

Senator Nelson offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 2455** by striking Section 3.04 of the bill (Senate committee printing, page 2, lines 25-31) and renumbering subsequent sections of the bill appropriately.

The floor amendment was read and was adopted without objection.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 2455** by adding an appropriately numbered new section to Article 1 of the bill and renumbering the other sections of the article accordingly:

SECTION ____ . STATE BOARD OF EDUCATOR CERTIFICATION. (a) Section 21.035, Education Code, is amended to read as follows:

Sec. 21.035. APPLICATION OF SUNSET ACT. The board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this subchapter expires September 1, 2005 [~~2003~~].

(b) This section takes effect only if the 78th Legislature, Regular Session, 2003, does not enact other legislation that becomes law and that amends Section 21.035, Education Code, to extend the sunset date of the State Board for Educator Certification. If the 78th Legislature, Regular Session, 2003, enacts legislation of that kind, this section has no effect.

The floor amendment was read.

On motion of Senator Lucio, Floor Amendment No. 3 was temporarily withdrawn.

Senator Lindsay offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 2455**, Article 2, by adding new SECTION 2.06 (page 2, line 2-3, committee printing) by inserting the following:

SECTION 2.06. CERTAIN METROPOLITAN TRANSIT AUTHORITIES. Subchapter J, Chapter 451, Transportation Code is amended by adding Section 451.453 to read as follows:

Sec. 451.453. An authority in which the principal municipality has a population of more than 1.5 million is subject to review under Chapter 325, Government Code. The authority shall be reviewed during the period in which state agencies scheduled to be abolished in 2005 and every 12th year after that year are reviewed.

The floor amendment was read and was adopted without objection.

Senator Lucio again offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 2455** by adding an appropriately numbered new section to Article 1 of the bill and renumbering the other sections of the article accordingly:

SECTION _____. STATE BOARD OF EDUCATOR CERTIFICATION. (a) Section 21.035, Education Code, is amended to read as follows:

Sec. 21.035. APPLICATION OF SUNSET ACT. The board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this subchapter expires September 1, 2005 [~~2003~~].

(b) This section takes effect only if the 78th Legislature, Regular Session, 2003, does not enact other legislation that becomes law and that amends Section 21.035, Education Code, to extend the sunset date of the State Board for Educator Certification. If the 78th Legislature, Regular Session, 2003, enacts legislation of that kind, this section has no effect.

The floor amendment was again read and was adopted without objection.

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

CSHB 2455 as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2455 ON THIRD READING**

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2455** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

AT EASE

The Presiding Officer, Senator Armbrister in Chair, at 3:45 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

IN LEGISLATIVE SESSION

Senator Carona at 4:02 p.m. called the Senate to order as In Legislative Session.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 28, 2003

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 5, Relating to the creation, administration, powers, duties, functions, operations, and financing of the Johnson County Special Utility District; authorizing the imposition of taxes and the issuance of bonds.

SB 6, Relating to clarifying the time to claim a lottery prize and extending the time for certain military personnel.

SB 18, Relating to the creation and authority of the Baybrook Management District; providing authority to impose taxes and issue bonds.

SB 24, Relating to the creation, administration, powers, duties, operation, and financing of the Ranch at Clear Fork Creek Municipal Utility District No. 1; granting the authority to impose taxes and issue bonds; granting the power of eminent domain.

SB 51, Relating to a sexual assault program referral provided by a law enforcement agency to certain victims.

SB 92, Relating to a residential tenant's right to summon police or emergency assistance; providing a civil penalty.

SB 113, Relating to premium discounts for certain residential property insurance policies.

SB 115, Relating to providing consumers with information regarding policy forms for residential and farm and ranch property insurance coverage.

SB 258, Relating to the tuition charged by institutions of higher education for high school students enrolled in college-level courses.

SB 322, Relating to persons who may administer oaths in Texas.

SB 325, Relating to the implementation of a change in law imposing or changing the amount of certain court costs and fees.

SB 485, Relating to the use of exclusive development agreements by an intermunicipal commuter rail district.

SB 487, Relating to the relocation of utilities required for the improvement of the state highway system.

SB 637, Relating to elimination of the state payment for certain national insurance database fees.

SB 674, Relating to compensatory time off for certain persons who are employed by the state as peace officers.

SB 681, Relating to the standard nonforfeiture law for certain annuities.

SB 739, Relating to aggregate or statistical information about the screening program for hearing loss in newborns.

SB 741, Relating to certification in first aid and cardiopulmonary resuscitation for certain school district employees.

SB 757, Relating to the application for a candidate to be placed on the general primary election ballot.

SB 767, Relating to the creation of the Harris County Road Improvement District No. 1; providing authority to impose a tax and issue bonds.

SB 841, Relating to the regulation of certain extra job coordinators by the Texas Commission on Private Security.

SB 902, Relating to the term of a contract between an appraisal district and the financial entity designated as the depository for the district.

SB 968, Relating to a program to promote participation by public junior college students in individual development account programs.

SB 972, Relating to the addition of certain municipalities to the territory of a regional transportation authority.

SB 1019, Relating to the powers, duties, taxing authority, and dissolution procedure of the Ballinger Memorial Hospital District.

SB 1109, Relating to revocation of the certificate and termination of the employment of public school educators convicted of certain offenses.

SB 1128, Relating to the administration of the Joint Admission Medical Program.

SB 1143, Relating to designation of defense economic readjustment zones and defense readjustment projects.

SB 1155, Relating to the purchase of certain wireless communication devices by state agencies.

SB 1159, Relating to the regulation of motor vehicle emissions in counties participating in early action compacts.

SB 1180, Relating to an index of court costs and fees in civil proceedings, court costs on conviction, and other court-related fees and costs.

SB 1225, Relating to the removal of a body part or tissue from a decedent who died under circumstances requiring an inquest.

SB 1230, Relating to authorizing an environmental service fee at Southwest Texas State University.

SB 1362, Relating to the development of a regional water supply reservoir project at Lake Eastex reservoir site, the renaming of the site as Lake Columbia, and the acquisition of the site and other property; providing for the issuance of bonds.

SB 1388, Relating to access to certain personal information under the public information law.

SB 1484, Relating to the acceptance of organization reports and permit applications and approval of certificates of compliance by the Railroad Commission of Texas.

SB 1521, Relating to tuition charged by a public institution of higher education for certain graduate programs.

SB 1546, Relating to laboratory and certain other related fees for public junior colleges.

SB 1614, Relating to imposing a civil penalty for violation of certain restrictions relating to genetic information.

SB 1642, Relating to the establishment of a geriatric education and care research center at The University of Texas Health Science Center at Tyler.

SB 1665, Relating to the care of a child taken into possession by a governmental entity without a court order.

SB 1700, Relating to the administration of the weather modification and control grant program.

SB 1748, Relating to the continuation of the law authorizing the issuance of oversize or overweight vehicle permits by certain port authorities.

SB 1885, Relating to the creation of the Sienna Plantation Management District; providing authority to impose taxes and issue bonds.

SB 1897, Relating to the creation of the Fall Creek Management District; providing authority to impose taxes and issue bonds.

SB 1899, Relating to permit requirements for groundwater transfers out of Pineywoods Groundwater Conservation District.

SB 1925, Relating to the powers, financing, and fees of office for the Rolling Plains Groundwater Conservation District.

SB 1930, Relating to the board of directors and the powers of the Lone Star Groundwater Conservation District; validating certain actions and proceedings of the district.

SB 1933, Relating to the exclusion of property from Waterwood Municipal Utility District No. 1.

SB 1941, Relating to the creation, administration, powers, duties, operation, and financing of the Lake Alan Henry Water District; granting the power of eminent domain; authorizing the issuance of bonds and the imposition of taxes.

SB 1948, Relating to the release on bond of certain applicants for a writ of habeas corpus.

SB 1955, Relating to the Red River Redevelopment Authority; providing the power of eminent domain and the power to issue bonds.

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

**COMMITTEE SUBSTITUTE
HOUSE BILL 1282 ON SECOND READING**

Senator Duncan moved to suspend the regular order of business to take up for consideration **CSHB 1282** at this time on its second reading:

CSHB 1282, Relating to commercial electronic mail; providing penalties.

The motion prevailed by a viva voce vote.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 1282 ON THIRD READING**

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1282** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

HOUSE BILL 3578 ON SECOND READING

Senator Ellis moved to suspend the regular order of business to take up for consideration **HB 3578** at this time on its second reading:

HB 3578, Relating to powers, duties, and name of the Upper Kirby Management District.

The motion prevailed by a viva voce vote.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3578** (Senate committee report) as follows:

(1) Immediately following the enacting clause (page 1, after line 10) insert the following:

ARTICLE 1. UPPER KIRBY MANAGEMENT DISTRICT

(2) Immediately following SECTION 8 (page 3, after line 17) insert the following:

ARTICLE 2. MONTROSE MUSEUM COMMUNITY
MANAGEMENT DISTRICT

SECTION 1. CREATION OF DISTRICT. (a) The Montrose Museum Community Improvement District is a special district created under Section 59, Article XVI, Texas Constitution.

(b) The board by resolution may change the name of the district.

SECTION 2. DEFINITIONS. In this article:

(1) "Board" means the board of directors of the district.

(2) "District" means the Montrose Museum Community Improvement District.

SECTION 3. DECLARATION OF INTENT. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this article.

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety, and the public welfare in the area of the district.

(c) This article and the creation of the district may not be interpreted to relieve Harris County or the City of Houston from providing the level of services provided, as of the effective date of this article, to the area in the district. The district is created to supplement and not to supplant the county or city services provided in the area in the district.

SECTION 4. BOUNDARIES. The district includes all the territory contained in the following described area:

All Boundary Descriptions, unless otherwise specified, assume the Center point of the right of way line for all streets mentioned in the description below.

THE MONTROSE MUSEUM COMMUNITY IMPROVEMENT DISTRICT
BOUNDARY LINE COMMENCES:

At the southeast corner of the intersection of West Dallas and Montrose Boulevard heading in a northerly direction on Montrose to the intersection of Montrose and Allen Parkway; thence,

Proceeding in an easterly direction on Allen Parkway to the intersection of Allen Parkway and US Hwy 45; continuing in a southerly direction on US Hwy 45 to the intersection of US Hwy 45 and Cleveland; thence,

Heading west along Cleveland to the intersection of Cleveland and Arthur streets; thence,

Where the boundary line intersects with the approved boundary line for the Midtown Management district; thence,

Proceeding from the intersection of Welch and Boston, the boundary line parallels the Midtown Management district boundary line in a southwesterly direction on Boston, as it proceeds in a southeasterly direction on Tuam, and continues in a southerly direction from Tuam to the intersection of Tuam and Bagby, and continues in a southerly direction as Bagby turns into Spur 527; thence,

The boundary line continues to parallel the Midtown Management district boundary line as the boundary line as it proceeds from US Hwy 59, in an easterly direction until it intersects with Main Street, then proceeds in a southwesterly direction until the Midtown Management district boundary line comes to the intersection of Portland and Main; thence,

The Boundary for the Montrose Museum Community Improvement District proceeds in a southwesterly direction along Main Street, paralleling the boundary line for the Greater Southeast Management district until the intersection of Main and Bissonnet Street; thence

The boundary line proceeds in a Westerly direction along Bissonnet Street, until Bissonnet intersects with Montrose Boulevard; thence,

Proceeding north along the western right-of-way line for Montrose Boulevard to the intersection of Montrose and West Dallas; thence,

Proceeding in a westerly direction along the southern right-of-way line of West Dallas to the southeast intersection of Montrose and West Dallas, the point and place of beginning.

SAVE AND EXCEPT all tracts or parcels of land, rights-of-way, facilities and improvements owned by a Utility.

SECTION 5. FINDINGS RELATING TO BOUNDARIES. The boundaries and field notes of the district form a closure. A mistake in the field notes or in copying the field notes in the legislative process does not in any way affect the district's:

- (1) organization, existence, or validity;
- (2) right to issue any type of bond for a purpose for which the district is created or to pay the principal of and interest on a bond;
- (3) right to impose or collect an assessment or tax; or
- (4) legality or operation.

SECTION 6. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this article.

(c) The creation of the district is in the public interest and is essential to:

- (1) further the public purposes of development and diversification of the economy of the state;
- (2) eliminate unemployment and underemployment; and
- (3) develop or expand transportation and commerce.

(d) The district will:

- (1) promote the health, safety, and general welfare of residents, employers, employees, visitors, and consumers in the district, and of the public;
- (2) provide needed funding to preserve, maintain, and enhance the economic health and vitality of the district as a community and business center; and
- (3) promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty.

(e) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(f) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

SECTION 7. APPLICATION OF OTHER LAW. (a) Except as otherwise provided by this article, Chapter 375, Local Government Code, applies to the district.

(b) Chapter 311, Government Code (Code Construction Act), applies to this article.

SECTION 8. CONSTRUCTION OF ACT. This article shall be liberally construed in conformity with the findings and purposes stated in this article.

SECTION 9. NOTICE AND APPROVAL OF PROPERTY OWNERS. (a) Not later than the 30th day before the date of the first board meeting, written notice must be mailed by certified mail, return receipt requested, to each property owner in the district who could be subject to assessment by the district at the address of the property owner as reflected on the most recent certified tax appraisal roll for Harris County.

(b) The notice under Subsection (a) of this section must include:

(1) a description and definition of the Montrose Museum Community Improvement District;

(2) the purpose of the district;

(3) a statement that the district, by action of the board, may charge an assessment for improvements to be made in the district;

(4) the time, date, and location of the first board meeting; and

(5) a method by which the property owner may respond indicating approval or disapproval of the creation of the district.

(c) If the majority of the property owners responding before the time of the first board meeting indicate disapproval of the creation of the district, the board may not take any action, except that the board may schedule another meeting and repeat the process provided by this section.

SECTION 10. BOARD OF DIRECTORS IN GENERAL. (a) The

(2) a housing finance corporation created under Chapter 394, Local Government Code, to provide housing or residential development projects in the district.

SECTION 16. AGREEMENTS; GRANTS. (a) The district may make an agreement with or accept a gift, grant, or loan from any person.

(b) The implementation of a project is a governmental function or service for the purposes of Chapter 791, Government Code.

SECTION 17. LAW ENFORCEMENT SERVICES. To protect the public interest, the district may contract to provide law enforcement services in the district for a fee.

SECTION 18. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act on behalf of the district in implementing a project or providing a service authorized by this article.

(b) The board shall appoint the board of directors of a nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as the board of directors of a local government corporation created under Chapter 431, Transportation Code.

(c) The nonprofit corporation:

(1) has the powers of and is considered for purposes of this article to be a local government corporation created under Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this article.

SECTION 19. REQUIREMENTS FOR FINANCING SERVICES AND IMPROVEMENTS. The board may not finance a service or improvement project with assessments under this article unless a written petition requesting that improvement or service has been filed with the board. The petition must be signed by:

(1) the owners of a majority of the assessed value of real property in the district that will be subject to the assessment as determined by the most recent certified tax appraisal roll for Harris County; or

(2) at least 50 owners of real property in the district that will be subject to the assessment, if more than 50 persons own real property subject to the assessment in the district as determined by the most recent certified tax appraisal roll for Harris County.

SECTION 20. ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this article.

(b) An assessment, a reassessment, or an assessment resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

(1) are a first and prior lien against the property assessed;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and charge against the owners of the property even if the owners are not named in the assessment proceedings.

(c) The lien is effective from the date of the resolution of the board imposing the assessment until the date the assessment is paid. The board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

SECTION 21. UTILITIES. The district may not impose an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of an electric utility or a power generation company as defined by Section 31.002, Utilities Code, of a gas utility as defined by Section 101.003 or 121.001, Utilities Code, of a telecommunications provider as defined by Section 51.002, Utilities Code, or of a cable operator as defined by 47 U.S.C. Section 522 and its subsequent amendments.

SECTION 22. BONDS. (a) The district may issue bonds or other obligations payable in whole or in part from ad valorem taxes, assessments, impact fees, revenue, grants, or other money of the district, or any combination of those sources of money, to pay for any authorized purpose of the district.

(b) The board may not issue bonds for a service or improvement project under this article unless a written petition requesting that improvement or service has been filed with the board. The petition must be signed by the owners of a majority of the assessed value of real property in the district that will be subject to the assessment as determined by the most recent certified tax appraisal roll for Harris County.

(c) In exercising the district's borrowing power, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

SECTION 23. DISBURSEMENTS OR TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

SECTION 24. COMPETITIVE BIDDING LIMIT. Section 375.221, Local Government Code, applies to the district only for a contract that has a value of more than \$15,000.

SECTION 25. EXCEPTION FOR DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT. (a) The board may vote to dissolve a district that has debt. If the vote is in favor of dissolution, the district shall remain in existence solely for the limited purpose of discharging its debts. The dissolution is effective when all debts have been discharged.

(b) Section 375.264, Local Government Code, does not apply to the district.

SECTION 26. INITIAL DIRECTORS. (a) The initial board consists of the following persons:

Pos. No.	Name of Director
1	Clay Moore
2	Kathy Hubbard
3	John Hansen
4	H. Ken Dedominicis
5	Claude Wynn
6	Brett Littel
7	Raju Adwaney
8	Tom Fricke
9	James Robert McDermaid
10	June Deadrick
11	William Paul Thomas
12	Karen Dominoe
13	Jeff Andrews

(b) Of the initial directors, the terms of directors appointed for positions 1 through 7 expire June 1, 2005, and the terms of directors appointed for positions 8 through 13 expire June 1, 2007.

(c) Section 12 of this article does not apply to this section.

(d) This section expires September 1, 2007.

SECTION 27. LEGISLATIVE FINDINGS. The legislature finds that:

(1) proper and legal notice of the intention to introduce this article, setting forth the general substance of this article, has been published as provided by law, and the notice and a copy of this article have been furnished to all persons, agencies,

officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor, who has submitted the notice and article to the Texas Commission on Environmental Quality;

(2) the Texas Commission on Environmental Quality has filed its recommendations relating to this article with the governor, lieutenant governor, and speaker of the house of representatives within the required time;

(3) the general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with; and

(4) all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this article have been fulfilled and accomplished.

(3) Strike SECTION 9 of the bill (page 3, lines 18-22) and substitute the following:

ARTICLE 3. EFFECTIVE DATE

SECTION 1. 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, 2003.

The floor amendment was read and was adopted without objection.

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

HB 3578 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 3578 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3578** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 3035 ON SECOND READING

Senator Armbrister moved to suspend the regular order of business to take up for consideration **HB 3035** at this time on its second reading:

HB 3035, Relating to the power of groundwater conservation districts to regulate the spacing of water wells and the production of groundwater.

The motion prevailed by a viva voce vote.

The bill was read second time.

Senator Armbrister offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 3035** as follows:

On page 2, line 23, strike "a district shall select a method under Subsection (a)(2) that is appropriate based on the hydrogeological conditions of the aquifer or aquifers in the district" and substitute "and selecting an appropriate method under Subsection (a)(2), a district shall select the hydrogeological conditions of the aquifer or aquifers in the district."

The committee amendment was read.

On motion of Senator Armbrister, Committee Amendment No. 1 was tabled by a viva voce vote.

Senator Armbrister offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend **HB 3035** by inserting new SECTIONS 2 through 13 as follows and renumbering the remaining sections accordingly:

"SECTION 2. Section 1.03, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Subdivision (28) to read as follows:

(28) "Recharge facility" means a dam, reservoir, or other recharge project, and associated facilities, structures, or works.

SECTION 3. Section 1.07, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

Sec. 1.07. OWNERSHIP OF UNDERGROUND WATER. The ownership and rights of the owner of the land and the owner's lessees and assigns, including holders of recorded liens or other security interests in the land, in underground water and the contract rights of any person who purchases water for the provision of potable water to the public or for the resale of potable water to the public for any use are recognized. However, action taken pursuant to this Act may not be construed as depriving or divesting the owner or the owner's lessees and assigns, including holders of recorded liens or other security interests in the land, of these ownership rights or as impairing the contract rights of any person who purchases water for the provision of potable water to the public or for the resale of potable water to the public for any use, subject to the rules adopted by the authority or a district exercising the powers provided by Chapter 36 [~~52~~], Water Code. The legislature intends that just compensation be paid if implementation of this article causes a taking of private property or the impairment of a contract in contravention of the Texas or federal constitution.

SECTION 4. Subsection (a), Section 1.08, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(a) The authority has all of the powers, rights, and privileges necessary to manage, conserve, preserve, and protect the aquifer and to increase the recharge of, and prevent the waste or pollution of water in, the aquifer. The authority has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 36, 49, and [~~50,~~] 51, [~~and 52,~~] Water Code, applicable

to an authority created under Article XVI, Section 59, of the Texas Constitution. This article prevails over any provision of general law that is in conflict or inconsistent with this article regarding the area of the authority's jurisdiction.

SECTION 5. Section 1.09, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Subsection (i) to read as follows:

(i) To be eligible to be elected or appointed as a voting member of the board, a person must have resided continuously in the authority single-member election district from which the person seeks to be elected or appointed for six months immediately preceding the following date:

(1) for a candidate for election, the 60th day before the general election date; or

(2) for a candidate for appointment, the date the appointment is made.

SECTION 6. Section 1.11, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subsection (f) and adding Subsection (h) to read as follows:

(f) The authority may contract with a person who uses water from the aquifer for the authority or that person to own, finance, design, construct, operate, or ~~own, finance, and~~ maintain recharge [water supply] facilities. [Management fees or special fees may not be used for purchasing or operating these facilities. For the purpose of this subsection, "water supply facility" includes a dam, reservoir, treatment facility, transmission facility, or recharge project.]

(h) Notwithstanding any other provision of law, the authority has no duty, responsibility, or authority relating to the protection of water quality. The commission is the agency of the state with responsibility and authority relating to the protection of water quality within the boundaries of the authority.

SECTION 7. Subsections (b) and (c), Section 1.14, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, are amended to read as follows:

(b) Except as provided by Subsections (d), (f), and (h) of this section and Section 1.26 of this article, beginning January 1, 2008 ~~[for the period ending December 31, 2007]~~, the amount of permitted withdrawals from the aquifer under regular permits may not exceed 450,000 acre-feet of water for each calendar year.

(c) Except as provided by Subsections (d), (f), and (h) of this section and Section 1.26 of this article, beginning January 1, 2010 ~~[for the period beginning January 1, 2008]~~, the amount of permitted withdrawals from the aquifer under regular permits may not exceed 400,000 acre-feet of water for each calendar year.

SECTION 8. Section 1.16, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Subsection (i) to read as follows:

(i) The authority shall process as administratively complete all declarations of historical use received by the authority on or before February 16, 1997, and shall consider any such declaration as timely filed.

SECTION 9. Section 1.21, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by amending Subsection (c) and adding Subsections (d) and (e) to read as follows:

(c) If, before ~~[on or after]~~ January 1, 2008, the aggregate ~~[overall]~~ volume of water authorized to be withdrawn from the aquifer under regular permits is greater than 450,000 ~~[400,000]~~ acre-feet a year or greater than the adjusted amount

determined under Subsection (d) of Section 1.14 of this article, not later than October 1, 2007, the board shall issue an order to be effective on January 1, 2008, proportionately adjusting the [maximum] authorized withdrawal amount of each regular permit [shall be immediately reduced by an equal percentage] as is necessary to reduce aggregate authorized withdrawals under regular permits [overall maximum demand] to 450,000 [400,000] acre-feet a year or the adjusted amount, as appropriate. [The amount reduced may be restored, in whole or in part, as other appropriate measures are implemented that maintain overall demand at or below the appropriate amount.]

(d) If, before January 1, 2010, the aggregate volume of water authorized to be withdrawn from the aquifer under regular permits is greater than 400,000 acre-feet a year or greater than the adjusted amount determined under Subsection (d) of Section 1.14 of this article, the board, not later than October 1, 2009, shall issue an order to be effective January 1, 2010, proportionally adjusting the authorized withdrawal amount of each regular permit as is necessary to reduce aggregate authorized withdrawals under regular permits to 400,000 acre-feet a year or the adjusted amount, as appropriate.

(e) Proportional adjustments under this section and for purposes of satisfying the requirements of Section 1.14 of this article and this section shall be applied on the same terms and conditions to all permits issued under Section 1.16 of this article.

SECTION 10. Subsection (b), Section 1.28, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(b) The authority may issue revenue bonds to finance:

(1) the purchase of land;

(2) [or] the purchase, construction, or installation of facilities or equipment, including recharge dams and associated facilities, structures, or works; or

(3) the retirement of permits under Sections 1.21 and 1.22 of this article.

[The authority may not allow for any person to construct, acquire, or own facilities for transporting groundwater out of Uvalde County or Medina County.]

SECTION 11. Article 1, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Section 1.331 to read as follows:

Sec. 1.331. EXEMPTION FOR FEDERAL FACILITIES; TRANSFER OF OWNERSHIP OF APPLICATION. (a) Federal facilities, which are immune from regulation under the doctrine of sovereign immunity, are exempt from the requirements of this article and any rules adopted under this article.

(b) A person may obtain an initial regular permit based on an application voluntarily filed by a federal facility if, before September 1, 2003, the authority approves the transfer of ownership of the application for an initial regular permit from the federal facility to the person seeking the permit. If, after the date a transfer is approved by the authority, groundwater subject to the transfer continues to be withdrawn by the federal facility making the transfer, the authority shall condition the authorized withdrawal amount of the transferee's interim authorization or initial regular permit on the reduction in the amount equal to the federal facility withdrawals.

SECTION 12. Subsection (c), Section 1.34, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended to read as follows:

(c) Subject to the rules of the authority, a [A] permit holder may transfer a regular permit or interim authorization [lease permitted water rights, but a holder of a permit for irrigation use may not lease more than 50 percent of the irrigation rights initially permitted. The user's remaining irrigation water rights must be used in accordance with the original permit and must pass with transfer of the irrigated land]. Fifty percent of the groundwater withdrawal amount initially permitted for irrigation may be used only for irrigation.

SECTION 13. Section 1.35, Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993, is amended by adding Subsection (f) to read as follows:

(f) A person who transfers a permit or interim authorization to withdraw groundwater from the San Antonio pool to a well that draws from the Uvalde pool may not transport groundwater withdrawn under the transferred permit or interim authorization out of the county in which the well that draws from the Uvalde pool is located."

The committee amendment was read.

Senator Madla offered the following amendment to the amendment:

Floor Amendment No. 1

Amend Committee Amendment No. 2 to **HB 3035** as follows:

(1) Strike SECTION 10, page 3, lines 8-19, and renumber the subsequent sections accordingly.

(2) Strike SECTION 12, page 3, lines 39-50, and renumber the subsequent sections accordingly.

(3) Strike SECTION 13, page 3, lines 51-58.

The amendment to the amendment was read and was adopted by the following vote: Yeas 18, Nays 10.

Yeas: Barrientos, Brimer, Deuell, Duncan, Ellis, Fraser, Gallegos, Hinojosa, Jackson, Lindsay, Lucio, Madla, Ogden, Shapiro, Staples, Whitmire, Williams, Zaffirini.

Nays: Armbrister, Averitt, Bivins, Carona, Estes, Harris, Nelson, Shapleigh, Van de Putte, Wentworth.

Absent: Janek, Ratliff, West.

Question recurring on the adoption of Committee Amendment No. 2 as amended, the amendment as amended was adopted by a viva voce vote.

Senator Armbrister offered the following committee amendment to the bill:

Committee Amendment No. 3

Amend **HB 3035** (House engrossment) as follows:

(1) Insert a new SECTION of the bill to read as follows:

SECTION _____. Section 36.101, Water Code, is amended by adding Subsection (d) to read as follows:

(d) The commission has principal and exclusive authority as to the control, regulation, or abatement of nonpoint source pollution of water or other regulation of water quality in terms of limiting a landowner's ability to develop or use that land in

the jurisdiction of any water district or authority with regional management and regulatory authority over groundwater withdrawals within all or part of at least five counties.

(2) Insert a new SECTION of the bill to read as follows:

SECTION _____. This section supersedes any other provision of this Act to the extent of any conflict. Section 36.101(d), Water Code, as added by this Act, supersedes any other applicable law or action taken under that law to the extent of any conflict. Any rule or order of an applicable district or authority purporting to regulate water quality as described by the change in law made by this Act to Section 36.101, Water Code, may not be enforced regardless of whether the adoption date of the rule or order is before, on, or after the effective date of this Act.

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

VOTE RECONSIDERED

On motion of Senator Armbrister and by unanimous consent, the vote by which Committee Amendment No. 3 was adopted was reconsidered.

Question — Shall Committee Amendment No. 3 to **HB 3035** be adopted?

Senator Armbrister offered the following amendment to the amendment:

Floor Amendment No. 2

Amend Committee Amendment No. 3 to **HB 3035** in Section 36.101(d), Water Code, by striking "in the jurisdiction of any water district or authority with regional management and regulatory authority over groundwater withdrawals within all or part of at least five counties" and substituting "in relation to the regulatory powers of any water district or authority with management and regulatory authority over groundwater withdrawals. This subsection does not affect a municipality's authority under other law to regulate water quality as described by this subsection in the municipality's limits or extraterritorial jurisdiction.".

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

Question recurring on the adoption of Committee Amendment No. 3 as amended, the amendment as amended was again adopted by a viva voce vote.

Senator Madla offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 3035** as follows:

(1) On page ____, line ____, insert the following appropriately numbered SECTION and renumber subsequent SECTIONS accordingly:

SECTION _____. (a) In this section, "district" shall mean the Hudspeth County Underground Water Conservation District No. 1.

(b) In order to reduce property taxes for the residents of Hudspeth County, Texas, and to reduce the expenditures of the district by excluding territory from the district that overlies aquifers not regulated by the district, the boundaries of the district are modified to include only the territory contained in the following described area:

BEGINNING at the northwest corner of Section 3, Block A, University, Hudspeth County, Texas, and being a point in the state line between Texas and New Mexico, for the northwest corner of the survey;

THENCE south with the west boundary line of Section 3, Block A, University, to its southwest corner;

THENCE east with the south boundary line of Section 3, Block A, University, to its southeast corner, which point is also the northeast corner of Section 10, Block A, University;

THENCE south with the west boundary line of Section 11, Block A, University, to its southwest corner;

THENCE east with the south boundary line of Section 11, Block A, University, and continuing east with the south boundary line of Section 12, Block A, University, to the southeast corner of Section 12, Block A, University;

THENCE south with the east boundary of Section 13, Block A, University, to the southeast corner of Section 13, Block A, University, which point is also the northeast corner of Section 24, Block A, University;

THENCE east with the north boundary line of Section 19, Block B, University, and continuing east with the north boundary line of Section 20, Block B, University, to the northeast corner of Section 20, Block B, University;

THENCE south with the east boundary line of Section 20, Block B, University, to the southeast corner of Section 20, Block B, University, which point is also the northeast corner of Section 29, Block B, University;

THENCE east with the north boundary line of Section 28, Block B, University, to the northeast corner of Section 28, Block B, University, which point is also the southeast corner of Section 21, Block B, University;

THENCE south with east boundary line of Section 28, Block B, University, to the southeast corner of Section 28, Block B, University, which point is also the northeast corner of Section 33, Block B, University;

THENCE east with the north boundary line of Section 34, Block B, University, and continuing east with the north boundary line of Section 35, Block B, University, to the northeast corner of Section 35, Block B, University;

THENCE south with east boundary line of Section 35, Block B, University, to its southeast corner, which point is also the northeast corner of Section 38, Block B, University;

THENCE east with the north boundary line of Section 37, Block B, University, and continuing east with the north boundary line of Section 48, Block C, University, to its northeast corner, which point is also the northwest corner of Section 47, Block C, University;

THENCE south with the east boundary line of Section 48, Block C, University, to its southeast corner;

THENCE east with the north boundary line of Section 50, Block C, University, to its northeast corner;

THENCE south with the east boundary line of Section 50, Block C, University, to its southeast corner;

THENCE east with the north boundary line of Section 4, Block D, University, and continuing east along the north boundary line of Section 3, Block D, University, to the northeast corner of Section 3;

THENCE south with the east boundary line of Section 3, Block D, University, to its southeast corner;

THENCE east with the north boundary line of Section 11, Block D, University, and continuing east along the north boundary line of Section 12, Block D, University, to its northeast corner;

THENCE south with the east boundary line of Section 12, Block D, University, to its southeast corner;

THENCE east with the north boundary line of Section 18, Block 72, Township 2, T & P, to its northeast corner;

THENCE south with the east boundary line of Section 18, Block 72, Township 2, T & P, to its southeast corner;

THENCE east with the north boundary line of Section 20, Block 72, Township 2, T & P, and continuing east along the north boundary line of Section 21, Block 72, Township 2, T & P, to the northeast corner of Section 21;

THENCE south with the east boundary line of Section 21, Block 72, Township 2, T & P, to its southeast corner;

THENCE east with the north boundary line of Section 27, Block 72, Township 2, T & P, and continuing east with the north boundary lines of Sections 26 and 25, Block 72, Township 2, T & P, and Section 30, Block 71, Township 2, T & P, to the northeast corner of Section 30;

THENCE south with the east boundary line of Section 30, Block 71, Township 2, T & P, to its southeast corner;

THENCE east with the north boundary line of Section 32, Block 71, Township 2, T & P, and continuing east with the north boundary line of Section 33, Block 71, Township 2, T & P, to the northeast corner of Section 33;

THENCE south with the east boundary line of Section 33, Block 71, Township 2, T & P, to its southeast corner;

THENCE east with the north boundary line of Section 39, Block 71, Township 2, T & P, to the northeast corner of Section 39;

THENCE south with the east boundary line of Section 39, Block 71, Township 2, T & P, to its southeast corner;

THENCE east with the north boundary line of Section 47, Block 71, Township 2, T & P, to the northeast corner of Section 47;

THENCE south with the east boundary line of Section 47, Block 71, Township 2, T & P, to the southeast corner of Section 47;

THENCE east with the south boundary line of Section 48, Block 71, Township 2, T & P, and continuing east with the south boundary line of Section 43, Block 70, Township 2, T & P, to the southeast corner of Section 43;

THENCE south with the east boundary lines of Section 7, Block JKL, P.S.L., and Section 6, Block K, University, to the southeast corner of Section 6;

THENCE east with the north boundary line of Section 8, Block K, University, and continuing east with the north boundary line of Section 9, Block K, University, to the northeast corner of Section 9;

THENCE south with the east boundary line of Section 9, Block K, University, to its southeast corner;

THENCE east with the north boundary line of Section 15, Block K, University, to its northeast corner;

THENCE south with the east boundary line of Section 15, Block K, University, and continuing south with the east boundary line of Section 22, Block K, University, to the southeast corner of Section 22;

THENCE east with the north boundary line of Section 26, Block K, University, to its northeast corner;

THENCE south with the east boundary line of Section 26, Block K, University, to its southeast corner;

THENCE east with the north boundary line of Section 36, Block K, University, to its northeast corner;

THENCE south with the east boundary line of Section 36, Block K, University, to its southeast corner;

THENCE east with the north boundary line of Section 42, Block L, University, to its northeast corner;

THENCE south with the east boundary line of Section 42, Block L, University, and continuing south with the east boundary line of Section 43, Block L, University, to the southeast corner of Section 43;

THENCE east with the north boundary line of Section 5, Block N, University, and continuing east with the north boundary line of Section 4, Block N, University, to the northeast corner of Section 4;

THENCE south with the east boundary line of Section 4, Block N, University, to its southeast corner;

THENCE east with the north boundary line of Section 22, Block N, University, to its northeast corner;

THENCE south with the east boundary line of Section 22, Block N, University, to its southeast corner;

THENCE east with the north boundary line of Section 26, Block N, University, and continuing east with the north boundary line of Section 25, Block N, University, to the northeast corner of Section 25;

THENCE south with the east boundary line of Section 25, Block N, University, to its southeast corner;

THENCE east with the north boundary line of Section 19, Block 68, Township 4, T & P, to its northeast corner;

THENCE south with the east boundary line of Section 19, Block 68, Township 4, T & P, to its southeast corner;

THENCE east with the north boundary line of Section 29, Block 68, Township 4, T & P, and continuing east with the north boundary line of Section 28, Block 68, Township 4, T & P, to the northeast corner of Section 28;

THENCE south with the east boundary line of Section 28, Block 68, Township 4, T & P, to its southeast corner;

THENCE east with the south boundary line of Section 27, Block 68, Township 4, T & P, and continuing east with the south boundary lines of Sections 26 and 25, Block 68, Township 4, T & P, to the intersection of the south boundary line of Section 25, Block 68, Township 4, T & P, with the east boundary line of Section 3, Block 30, P.S.L.;

THENCE south with the east boundary line of Section 3, Block 30, P.S.L., to its southeast corner;

THENCE east with the south boundary line of Section 2, Block 30, P.S.L., and continuing east with the south boundary lines of Section 1, Block 30, P.S.L., and Sections 5, 4, 3, and 2, Block 31, P.S.L., to the southeast corner of Section 2;

THENCE north with the east boundary line of Section 2, Block 31, P.S.L., and continuing north with the east boundary lines of Sections 26, 23, 14, 11, 2, Block 67, Township 4, T & P, and Sections 46, 37, 34, 25, 22, 13, 10, 5, Block 67, Township 3, T & P;

THENCE continuing north with the east boundary lines of Sections 43, 34, 33, 24, 23, 14, 11, 2, Block 67, Township 2, T & P, and Sections 47, 38, 35, 26, 23, 14, 11, 2, Block 67, Township 1, T & P, to the northeast corner of Section 2, being a point in the Texas - New Mexico State line forming the north boundary line of Hudspeth County, Texas;

THENCE west with the Texas - New Mexico State Line to the Point of Beginning.

(c) The legislature finds that the boundaries and field notes of the district under Subsection (b) form a closure. If a mistake is made in the field notes or in copying the field notes in the legislative process, the mistake does not affect in any way:

- (1) the organization, existence, or validity of the district;
- (2) the right of the district to impose taxes; or
- (3) the legality or operation of the district or the board.

(d) As a result of the change to the boundaries of the district made by Subsection (b) or if otherwise required by law, the board may:

- (1) adjust the precinct boundaries for the election of directors as necessary to provide for proper representation of the residents of the district; and
- (2) call and hold election under Chapter 36, Water Code, or other law to ensure the lawful representation and taxation of the residents of the district.

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

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 4

Amend **HB 3035** by inserting the following new appropriately numbered SECTIONS and renumber the subsequent SECTIONS accordingly to read as follows:

SECTION _____. Section 36.101, Water Code, is amended by amending Subsection (b) and adding Subsections (d) through (i) to read as follows:

(b) After notice and hearing, the board shall adopt and enforce rules to implement this chapter, including rules governing procedure before the board. ~~Notice in this section shall include publication of the agenda of the hearing in one or more newspapers of general circulation in the county or counties in which the district is located.~~

(d) Not later than the 10th day before the date of a rulemaking hearing, the general manager or board shall:

(1) post notice in a place readily accessible to the public in the district office;

(2) provide notice to the county clerk of each county in the district;

(3) publish notice in one or more newspapers of general circulation in the county or counties in which the district is located; and

(4) provide notice by mail, facsimile, or electronic mail to any person who has submitted a written request by certified mail, return receipt requested, for notice of a rulemaking hearing.

(e) The notice provided under Subsection (d) must include:

(1) the time, date, and location of the hearing;

(2) a brief explanation of the subject of the hearing; and

(3) a location at which a copy of the proposed rules may be reviewed or copied.

(f) The presiding officer shall conduct a rulemaking hearing in a manner appropriate to obtain information and testimony relating to the proposed rule as conveniently and expeditiously as possible without prejudicing the rights of any person who has requested the opportunity to offer information relating to the proposed rule or rulemaking.

(g) The presiding officer shall prepare and keep a record of each rulemaking hearing in the form of an audio or video recording or a court reporter transcription. On the request of any party, the hearing shall be transcribed by a court reporter. The presiding officer may assess any costs associated with the court reporter transcription against the party requesting the transcription or among the parties to the hearing at the discretion of the presiding officer.

(h) A person may submit to the district a written request for notice of a rulemaking hearing. A written request for notice of a rulemaking hearing must be submitted by certified mail, return receipt requested, and is effective for one year from the date the request is received by the district. To receive notice of a hearing after a request expires, a person must submit a new request. A written offer of proof by a district that notice was provided under Subsection (d)(4) or this subsection shall create a rebuttable presumption that proper notice was provided under Subsection (d)(4) or this subsection.

SECTION _____. Section 36.113, Water Code, is amended to read as follows:

Sec. 36.113. PERMITS FOR WELLS; PERMIT AMENDMENTS. (a) A district shall require permits for the drilling, equipping, operating, or completing of wells or for substantially altering the size of wells or well pumps. A district may require that an increase in the rate of withdrawal, total authorized production, or a change in the type of use of groundwater under a permit issued by the district may not be made unless the district has first approved a permit amendment authorizing the change. A district may not require a permit or a permit amendment for maintenance or repair of a well if the maintenance or repair does not increase the production capabilities of the well to more than its authorized or permitted production rates.

(b) A district shall require that an application for a permit or a permit amendment be in writing and sworn to.

(c) A district may require that the following be included in the permit or permit amendment application:

(1) the name and mailing address of the applicant and the owner of the land on which the well will be located;

(2) if the applicant is other than the owner of the property, documentation establishing the applicable authority to construct and operate a well for the proposed use;

(3) a statement of the nature and purpose of the proposed use and the amount of water to be used for each purpose;

(4) a water conservation plan or a declaration that the applicant will comply with the district's management plan;

(5) the location of each well and the estimated rate at which water will be withdrawn;

(6) a water well closure plan or a declaration that the applicant will comply with well plugging guidelines and report closure to the commission; and

(7) a drought contingency plan.

(d) Before granting or denying a permit or permit amendment, the district shall consider whether:

(1) the application conforms to the requirements prescribed by this chapter and is accompanied by the prescribed fees;

(2) the proposed use of water unreasonably affects existing groundwater and surface water resources or existing permit holders;

(3) the proposed use of water is dedicated to any beneficial use;

(4) the proposed use of water is consistent with the district's certified water management plan;

(5) the applicant has agreed to avoid waste and achieve water conservation; and

(6) the applicant has agreed that reasonable diligence will be used to protect groundwater quality and that the applicant will follow well plugging guidelines at the time of well closure.

(e) The district may impose more restrictive permit conditions on new permit applications and permit amendment applications to increase ~~increased~~ use by historic users if the limitations:

(1) apply to all subsequent new permit applications and permit amendment applications to increase ~~increased~~ use by historic users, regardless of type or location of use;

(2) bear a reasonable relationship to the existing district management plan; and

(3) are reasonably necessary to protect existing use.

(f) Permits and permit amendments may be issued subject to the rules promulgated by the district and subject to terms and provisions with reference to the drilling, equipping, completion, ~~or~~ alteration, or operation of, or production of groundwater from, ~~or~~ wells or pumps that may be necessary to prevent waste and achieve water conservation, minimize as far as practicable the drawdown of the water table or the reduction of artesian pressure, lessen interference between wells, or

control and prevent subsidence. The district by rule may limit the operation of or the production of groundwater from a well or pump under an existing permit only if the rule is uniformly applied as authorized by this chapter.

(g) In implementing Subsection (e) or Section 36.116(b), a district may require an existing or historic user to prove the maximum annual amount of groundwater that the user applied to a beneficial use during a reasonable period established by the district that ends on or before the date on which the district publishes notice or adopts rules protecting existing or historic users under Subsection (e) or Section 36.116(b).

(h) In implementing Subsection (g), a district may:

(1) for a user who produced groundwater only within the final year of the period established under Subsection (g), issue a permit for existing or historic use based on an extrapolation of the user's beneficial use of groundwater to the amount that would have been used in a full calendar year for the same beneficial use;

(2) for use based on agricultural irrigation, issue a permit based on:

(A) the maximum annual amount of groundwater actually used during the period established under Subsection (g); or

(B) the acreage irrigated during the period established under Subsection (g); or

(3) for an electric utility, a power generation company, or a retail electric provider as defined by Section 31.002, Utilities Code, issue a permit based on the amount actually used as computed under and for the period established under Subsection (g) or Subdivision (1).

(i) An annual report of groundwater use previously submitted to a state agency is admissible as evidence of existing or historic use under Subsection (g) or (h).

(j) Notwithstanding any provision to the contrary in this chapter, a district that implements Subsection (e) or Section 36.116(b) shall issue a permit to an existing or historic user for water actually produced for mining purposes but exempt from permitting pursuant to Section 36.117(b)(3) for the maximum annual amount of groundwater produced by the user for such mining purposes in the period established by the district under Subsection (g). Any permit or permit amendment that may be required by a district of an existing or historic user of groundwater for mining purposes described under this subsection to authorize the production, use, or transport of such groundwater for another type of use shall not be considered to be a new permit or a permit amendment to increase the amount of groundwater recognized by the district as an existing or historic use of groundwater for mining purposes described under this subsection, and the application for the permit or permit amendment shall be processed pursuant to the district's rules the same as any other application related to existing or historic use.

(k) Subsections (g), (h), (i), and (j) do not apply in a district in which the Internal Revenue Service has approved or approves a cost depletion deduction for extraction of groundwater from an aquifer from which total maximum annual historic use in this state has ever been determined by the Texas Water Development Board to be greater than 5 million acre-feet per year. ~~[A district may require that changes in the withdrawal and use of groundwater under a permit not be made without the prior approval of a permit amendment issued by the district.]~~

SECTION _____. Subchapter D, Chapter 36, Water Code, is amended by adding Section 36.1132 to read as follows:

Sec. 36.1132. DEFINED HISTORIC USE PERIODS FOR CERTAIN DISTRICTS. (a) This section applies only to a groundwater conservation district created under Section 59, Article XVI, Texas Constitution, that:

(1) is, at least in part, adjacent to an international border;

(2) has within its boundaries a part of an aquifer that is regulated under Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993; and

(3) is not regulated under Chapter 626, Acts of the 73rd Legislature, Regular Session, 1993.

(b) In implementing Section 36.113(e) or 36.116(b), and notwithstanding the periods described under Section 36.113(g), a district may institute a process requiring an existing or historic user to prove the maximum annual amount of groundwater that the user applied to a beneficial use during the period from:

(1) June 1, 1972, to December 31, 1991; or

(2) January 1, 1992, to January 7, 2003.

(c) In implementing Subsection (b), for a user who produced groundwater only within the final year of the period established under Subsection (b)(2), a district shall issue a permit for existing or historic use based on an extrapolation of the user's beneficial use of groundwater to the amount that would have been used in a full calendar year for the same beneficial use.

(d) If a district limits or reduces total permitted production within its boundaries in a manner consistent with its certified groundwater district management plan under Section 36.1072, the district shall limit or reduce the amount of permitted production of groundwater through proportionate reductions that will apply equally among classes of users in the following order, with all limitations or reductions that can be made in one class being made in that class before proceeding with limitations or reductions in the next subsequent class:

(1) new users, except as provided by Subdivision (2);

(2) the class of users described by Subsections (b)(1) and (c), or any new user who was issued a permit by the district on or before May 1, 2003, for the amount recognized in the permit; and

(3) the class of users described by Subsection (b)(2).

SECTION _____. Section 36.114, Water Code, is amended to read as follows:

Sec. 36.114. PERMIT; PERMIT AMENDMENT; APPLICATION AND HEARING. (a) The district by rule shall determine each activity which may be regulated by the district under this chapter for which a permit or permit amendment is required.

(b) For each activity for which the district determines a permit or permit amendment is required under Subsection (a), the district by rule shall determine the quantity, rate of production, or other grounds for which a hearing on the permit or permit amendment application is not required.

(c) For all applications for which a hearing is not required under Subsection (b), the board shall act on the application at a meeting, as defined by Section 551.001(4), Government Code, unless the board by rule has delegated to the general manager the authority to act on the application.

(d) The district shall promptly consider and act on each administratively complete application for a permit or permit amendment as provided by Subsection (c) or Subchapter M.

(e) If, within 60 [30] days after the date an [the] administratively complete application is submitted, the [an] application has not been acted on or set for a hearing on a specific date, the applicant may petition the district court of the county where the land is located for a writ of mandamus to compel the district to act on the application or set a date for a hearing on the application, as appropriate.

(f) For applications requiring a hearing, the initial [A] hearing shall be held within 35 days after the setting of the date, and the district shall act on the application within 60 [35] days after the date [of] the final hearing on the application is concluded.

(g) The district may by rule set a time when an application will expire if the information requested in the application is not provided to the district.

(h) An administratively complete application requires information set forth in accordance with Sections 36.113 and 36.1131.

SECTION _____. Subchapter L, Chapter 36, Water Code, is amended by adding Section 36.3705 to read as follows:

Sec. 36.3705. DEFINITION. In this subchapter, "applicant" means a newly confirmed district applying for a loan from the loan fund.

SECTION _____. Chapter 36, Water Code, is amended by adding Subchapter M to read as follows:

SUBCHAPTER M. PERMIT AND PERMIT AMENDMENT
APPLICATIONS; NOTICE AND HEARING PROCESS

Sec. 36.401. DEFINITION. In this subchapter, "applicant" means a person who is applying for a permit or a permit amendment.

Sec. 36.402. APPLICABILITY. Except as provided by Section 36.415, this subchapter applies to the notice and hearing process used by a district for permit and permit amendment applications.

Sec. 36.403. SCHEDULING OF HEARING. (a) The general manager or board shall schedule a hearing on permit or permit amendment applications received by the district as necessary, as provided by Section 36.114.

(b) The general manager or board may schedule more than one application for consideration at a hearing.

(c) A hearing must be held at the district office or regular meeting location of the board unless the board provides for hearings to be held at a different location.

(d) A hearing may be held in conjunction with a regularly scheduled board meeting.

Sec. 36.404. NOTICE. (a) The general manager or board shall give notice of each hearing on an application for a permit or permit amendment.

(b) The notice must include:

(1) the name of the applicant;

(2) the address or approximate location of the well or proposed well;

(3) for a permit amendment hearing, a brief explanation of the proposed amendment;

(4) the time, date, and location of the hearing; and

(5) any other information the general manager or board considers relevant and appropriate.

(c) Not later than the 10th day before the date of a hearing, the general manager or board shall:

(1) post notice in a place readily accessible to the public in the district office;

(2) provide notice to the county clerk of each county in the district; and

(3) provide notice by:

(A) regular mail to the applicant;

(B) regular mail, facsimile, or electronic mail to any person who has submitted a written request to the district by certified mail, return receipt requested, for notice of the hearing; and

(C) regular mail to any other person entitled to receive notice under the rules of the district.

(d) A person may submit to the district a written request for notice of a hearing on a permit or permit amendment application. A written request for notice of a hearing must be submitted by certified mail, return receipt requested, and is effective for one year from the date the request is received by the district. To receive notice of a hearing after a request expires, a person must submit a new request. A written offer of proof by a district that notice was provided under Subsection (c)(3) or this subsection shall create a rebuttable presumption that proper notice was provided under Subsection (c)(3) or this subsection.

Sec. 36.405. HEARING REGISTRATION. The district may require each person who participates in a hearing to submit a hearing registration form stating:

(1) the person's name;

(2) the person's address; and

(3) whom the person represents, if the person is not there in the person's individual capacity.

Sec. 36.406. HEARING PROCEDURES. (a) A hearing must be conducted by:

(1) a quorum of the board; or

(2) an individual to whom the board has delegated in writing the responsibility to preside as a hearings examiner over the hearing or matters related to the hearing.

(b) The board president or the hearings examiner shall serve as the presiding officer at the hearing.

(c) The presiding officer shall:

(1) convene the hearing at the time and place specified in the notice;

(2) set any necessary additional hearing dates;

(3) establish the order for presentation of evidence;

(4) administer oaths to all persons presenting testimony;

(5) examine persons presenting testimony;

(6) determine whether to allow cross examination of any witness qualified as an expert presenting scientific testimony;

(7) ensure that information and testimony are introduced as conveniently and expeditiously as possible without prejudicing the rights of any party; and

(8) prescribe reasonable time limits for testimony, the cross examination of any witness qualified as an expert presenting scientific testimony, and the presentation of evidence.

(d) Any person, including the general manager or a district employee, who is determined by the presiding officer to be an affected party, or a witness or expert on behalf of that person, may present evidence at the hearing.

(e) The presiding officer may allow testimony to be submitted in writing and shall require that any written testimony be sworn to.

(f) The presiding officer may allow a person who testifies at the hearing to supplement the testimony given at the hearing by filing additional written materials with the board or hearings examiner not later than the 10th day after the date of the hearing if no decision has been made by the board.

(g) Notwithstanding any other provision of this section, if authorized by the rules of the district, the presiding officer, at the discretion of the presiding officer, may issue an order at any time before board action under Section 36.411 that:

(1) refers parties to a contested application hearing to an alternative dispute resolution procedure on any matter at issue in the hearing;

(2) apportions costs equally among the parties; and

(3) appoints an impartial third party as provided by Section 2009.053, Government Code, to facilitate that procedure.

Sec. 36.407. EVIDENCE. (a) The presiding officer shall admit evidence if it is relevant and material to an issue at the hearing.

(b) The presiding officer may exclude evidence that is irrelevant, immaterial, or unduly repetitious.

Sec. 36.408. RECORDING. (a) Except as provided by Subsection (b), the presiding officer shall prepare and keep a record of each hearing in the form of minutes, audio or video recording, or court reporter transcription. On the request of any party to a contested hearing, the hearing shall be transcribed by a court reporter. The presiding officer may assess costs associated with the court reporter transcription against the party requesting the transcription or among the parties to the hearing at the presiding officer's discretion. The presiding officer may exclude a party from further participation in a hearing for failure to pay in a timely manner any costs associated with a court reporter transcription that were assessed against that party.

(b) If a hearing is uncontested, the presiding officer may substitute the report required under Section 36.410 for a method of recording the hearing described by Subsection (a).

Sec. 36.409. CONTINUANCE. The presiding officer may continue a hearing from time to time and from place to place without providing notice under Section 36.404. If the presiding officer continues a hearing without announcing at the hearing the time, date, and location of the continued hearing, the presiding officer must provide notice of the continued hearing by regular mail to persons who submitted a hearing registration form under Section 36.405.

Sec. 36.410. REPORT. (a) The presiding officer shall submit a report to the board not later than the 30th day after the date a hearing is concluded, unless the hearing was conducted by a quorum of the board. If the hearing was conducted by a quorum of the board, the presiding officer shall determine at the presiding officer's

discretion whether to prepare and submit a report to the board under this section. If the application is contested, the presiding officer shall prepare and submit a report to the board under this section, and any board action on the application must be accompanied by the report.

(b) The report must include:

(1) a summary of the subject matter of the hearing;

(2) a summary of the admissible evidence or public comments received; and

(3) the presiding officer's recommendations for board action on the subject matter of the hearing.

(c) A person who participated in the hearing may:

(1) submit a written request to review a copy of the report; and

(2) submit to the board written exceptions to the report.

(d) The presiding officer or general manager shall mail a copy of the report to each person who requests to review the report under Subsection (c).

Sec. 36.411. BOARD ACTION. The board shall act on a permit or permit amendment application not later than the 60th day after the date the final hearing on the application is concluded.

Sec. 36.412. REQUEST FOR REHEARING AND APPEAL. (a) An applicant may appeal a decision of the board or the general manager on a permit or permit amendment application, including a decision under Section 36.114(c), by requesting a rehearing before the board not later than the 20th day after the date of the decision of the board or general manager.

(b) A request for rehearing must be filed in writing in the district office and must state the grounds for the request.

(c) If the board grants a request for rehearing, the board shall schedule the rehearing not later than the 45th day after the date the request is granted.

(d) The failure of the board to grant or deny a request for rehearing before the 91st day after the date the request is submitted constitutes a denial of the request.

(e) If an application for which a hearing was not required is denied by the board, the applicant may request a rehearing on the application.

Sec. 36.413. DECISION; WHEN FINAL. (a) A decision by the board on a permit or permit amendment application is final:

(1) if a timely request for rehearing is not filed, on the expiration of the period for filing a request for rehearing; or

(2) if a timely request for rehearing is filed, on the date:

(A) the board denies the request for rehearing;

(B) the board renders a decision after rehearing; or

(C) the request for rehearing is denied by operation of law.

(b) A decision by the board on a permit or permit amendment application may be appealed to the district court when the decision is final under Subsection (a)(2).

Sec. 36.414. ADDITIONAL PROCEDURES. A district by rule shall adopt procedural rules to implement this subchapter and may adopt notice and hearing procedures in addition to those provided by this subchapter.

Sec. 36.415. HEARINGS CONDUCTED BY STATE OFFICE OF ADMINISTRATIVE HEARINGS. This subchapter does not apply to a hearing conducted by the State Office of Administrative Hearings under Section

2003.021(b)(4), Government Code. If a district contracts with the State Office of Administrative Hearings to conduct a hearing, the hearing shall be conducted as provided by Subchapters C, D, and F, Chapter 2001, Government Code.

Sec. 36.416. ALTERNATIVE DISPUTE RESOLUTION. A district by rule may develop and use alternative dispute resolution procedures in the manner provided for governmental bodies under Chapter 2009, Government Code.

Sec. 36.417. NONAPPLICABILITY OF CHAPTER 2001, GOVERNMENT CODE. Except as provided by Section 36.415, Chapter 2001, Government Code, does not apply to a hearing under this chapter.

SECTION _____. Subdivision (17), Section 36.001, Water Code, is repealed.

SECTION _____. (a) The legislature finds that:

(1) groundwater conservation districts have existing statutory authority to protect existing or historic use under Subsection (e), Section 36.113, and Subsection (b), Section 36.116, Water Code;

(2) in implementing Subsection (e), Section 36.113, and Subsection (b), Section 36.116, Water Code, it is important that groundwater conservation districts, in the conservation and management of groundwater, adopt precise rules regarding existing or historic use of groundwater, and that those rules may or may not include definite time periods during which existing or historic use must be proven; and

(3) it will benefit the state and its citizens to set express statutory guidelines that clarify the ability of groundwater conservation districts to define and identify existing or historic use periods.

(b) The changes in law made by this Act do not:

(1) limit the express or implied powers that groundwater conservation districts had before the effective date of this Act to implement Subsection (e), Section 36.113, and Subsection (b), Section 36.116, Water Code, using reasonable time periods during which existing or historic use must be proven by a permit applicant; or

(2) invalidate rules lawfully adopted by a groundwater conservation district before the effective date of this Act that use those reasonable time periods.

(c) A district to which Section 36.1132, Water Code, as added by this Act, applies may require a well that was previously exempted by district rule from the permitting procedures of the district but that is not exempt under Subsection (b), Section 36.117, Water Code, and is no longer exempted by district rule, as of the effective date of this Act, to comply with the permitting procedures and rules of the district, as amended. This subsection does not apply to the requirement to obtain a permit to drill, equip, or complete a well that was drilled, equipped, or completed under an exemption by district rule before the date of repeal of the exemption; however, this subsection does apply to the production of groundwater from or operation of such a well.

(d) Notwithstanding Subdivision (3), Subsection (h), Section 36.113, Water Code, as added by this Act, a district that issues permits based on existing or historic use under Subsection (e), Section 36.113, or Subsection (b), Section 36.116, Water Code, and implements Subsection (g), Section 36.113, Water Code, may issue an electric utility, a power generation company, or a retail electric provider as defined by Section 31.002, Utilities Code, a permit based on an amount necessary to annually provide sufficient groundwater for cooling, boiler make-up, and potable purposes for

use at an existing or planned power generation facility using land or the right to produce groundwater from land that was acquired by the electric utility, power generation company, or retail electric provider before May 1, 2003, to supply water to power generation facilities that on that date existed or were planned for future construction.

SECTION _____. The change in law made by this Act related to a permit or permit amendment application hearing or a rulemaking hearing held by a groundwater conservation district applies only to a permit or permit amendment application hearing or a rulemaking hearing held by a groundwater conservation district on or after the effective date of this Act. A permit or permit amendment application hearing or a rulemaking hearing held by a groundwater conservation district before the effective date of this Act is governed by the law related to notice and hearing in effect at the time the hearing is held, and the former law is continued in effect for that purpose.

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

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 5

Amend **HB 3035** as follows:

(1) Insert a new SECTION of the bill to read as follows:

SECTION _____. Section 36.101, Water Code, is amended by adding Subsection (d) to read as follows:

(d) Except within the city limits or the extraterritorial jurisdiction of a municipality, the commission has principal and exclusive authority as to the control, regulation, or abatement of nonpoint source pollution of water or other regulation of water quality in terms of limiting a landowner's ability to develop or use that land in the jurisdiction of any water district or authority with management and regulatory authority over groundwater withdrawals.

(2) Insert a new SECTION of the bill to read as follows:

SECTION _____. This section supersedes any other provision of this Act to the extent of any conflict. Section 36.101(d), Water Code, as added by this Act, supersedes any other applicable law or action taken under that law to the extent of any conflict. Any rule or order of an applicable district or authority purporting to regulate water quality as described by the change in law made by this Act to Section 36.101, Water Code, may not be enforced regardless of whether the adoption date of the rule or order is before, on, or after the effective date of this Act.

The floor amendment was read.

On motion of Senator Barrientos, Floor Amendment No. 5 was withdrawn.

Senator Bivins offered the following amendment to the bill:

Floor Amendment No. 6

Amend **HB 3035** by inserting the following new appropriately numbered Section to read as follows:

SECTION _____. Section 36.113, Water Code, is amended by adding the following new appropriately numbered subsection to read as follows:

() In issuing a permit for existing or historic use, a district may not discriminate against land or wells on land enrolled or participating in the federal conservation reserve program. Notwithstanding any provision to the contrary in this chapter, a district that adopts rules related to the protection of existing or historic use which authorize a person who participated in the federal conservation reserve program to establish existing or historic use based upon the person's groundwater production during a reasonable period of time established by the district prior to the person entering the federal conservation reserve program shall not be considered discrimination against such a person for purposes of this chapter.

The floor amendment was read and was adopted without objection.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 7

Amend **HB 3035** by adding new Sections to read as follows:

SECTION _____. Section 36.002, Water Code, is amended to read as follows:

Sec. 36.002. OWNERSHIP OF GROUNDWATER. The ownership and rights of the owners of the land and their lessees and assigns in groundwater are hereby recognized, and nothing in this code shall be construed as depriving or divesting the owners or their lessees and assigns of the ownership or rights, except as those rights may be limited or altered by rules promulgated by a district. A rule promulgated by a district may not discriminate against owners of land or their lessees and assigns whose land is enrolled or participating in a federal conservation reserve program.

SECTION _____. Section 36.101(a), Water Code, is amended to read as follows:

(a) A district may make and enforce rules, including rules limiting groundwater production based on tract size or the spacing of wells, to provide for conserving, preserving, protecting, and recharging of the groundwater or of a groundwater reservoir or its subdivisions in order to control subsidence, prevent degradation of water quality, or prevent waste of groundwater and to carry out the powers and duties provided by this chapter. During the rulemaking process the board shall consider all groundwater uses and needs and shall develop rules that [which] are fair and impartial and do not discriminate between land in production and land enrolled or participating in a federal conservation reserve program.

SECTION _____. Section 36.113, Water Code, is amended by adding Subsection (h) to read as follows:

(h) In issuing a permit for an existing or historic use, a district may not discriminate against land or wells on land enrolled or participating in a federal conservation reserve program. If a district adopts rules related to the protection of existing or historic use, any land in a federal conservation reserve program shall be treated as having an existing and historic use.

SECTION _____. (a) Except as provided by Subsection (b) of this section, the change in law made by this Act to Section 36.002, Section 36.101(a), and Section 36.113, Water Code, applies to all rules adopted by a groundwater conservation district before, on or after the effective date of this Act.

(b) The changes in law made by this Act to Section 36.002, Section 36.101(a), and Section 36.113, Water Code, does not apply to rules adopted by the Edwards Aquifer Authority.

The floor amendment was read.

Senator Bivins offered the following amendment to the amendment:

Floor Amendment No. 8

Amend Floor Amendment No. 7 to **HB 3035** as follows:

In the fourth SECTION, third line, strike "before, on or"

The amendment to the amendment was read and was adopted without objection.

Question recurring on the adoption of Floor Amendment No. 7 as amended, the amendment as amended was adopted without objection.

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

HB 3035 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 3035 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3035** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

On motion of Senator Armbrister, further consideration of **HB 3035** was temporarily postponed.

Question — Shall **HB 3035** be read third time?

COMMITTEE SUBSTITUTE

HOUSE BILL 2319 ON SECOND READING

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2319** at this time on its second reading:

CSHB 2319, Relating to juvenile delinquency; providing a criminal penalty.

The bill was read second time.

Senator Estes offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2319** in SECTION 28 of the bill, in proposed Section 61.053(a), Family Code (Senate committee printing, page 12, line 7), between "enforcement" and "against", by inserting "where incarceration is a possible punishment".

ESTES
NELSON

The floor amendment was read and was adopted without objection.

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

CSHB 2319 as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2319 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2319** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

HOUSE BILL 3384 ON SECOND READING

Senator Shapiro moved to suspend the regular order of business to take up for consideration **HB 3384** at this time on its second reading:

HB 3384, Relating to associate judges appointed by certain district courts in Dallas County.

The motion prevailed by a viva voce vote.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3384** as follows:

(1) Strike SECTION 6 of the bill, amending Section 54.506, Government Code, and substitute the following:

SECTION 6. Section 54.506, Government Code, is amended to read as follows:

Sec. 54.506. MATTERS THAT MAY BE REFERRED. A judge may refer any civil case or portion of a civil case to an associate judge for resolution [~~any matter to the master for a finding~~].

(2) Strike SECTION 9 of the bill, amending Section 54.508, Government Code, and substitute the following:

SECTION 9. Section 54.508, Government Code, is amended to read as follows:

Sec. 54.508. POWERS. Except as limited by an order of referral, the associate judge [~~master~~] may:

- (1) conduct hearings;
- (2) hear evidence;
- (3) compel production of relevant evidence, including books, papers, vouchers, documents, and other writings;
- (4) rule on admissibility of evidence;
- (5) issue summons for the appearance of witnesses;
- (6) examine witnesses;
- (7) swear witnesses for hearings;
- (8) regulate proceedings in a hearing; and
- (9) do any act and take any measure necessary and proper for the efficient performance of the duties required by the order of referral.

(3) Strike SECTION 10 of the bill, amending Section 54.509, Government Code, and substitute the following:

SECTION 10. Section 54.509, Government Code, is amended to read as follows:

Sec. 54.509. RECORD OF EVIDENCE. (a) A court reporter may be provided during a hearing held by an associate judge appointed under this subchapter. A court reporter is required to be provided when the associate judge presides over a jury trial.

(b) A party, the associate judge, or the referring court may provide for a reporter during the hearing if one is not otherwise provided.

(c) The record may be preserved in the absence of a court reporter by any other means approved by the associate judge.

(d) The referring court or associate judge may assess the expense of preserving the record under Subsection (c) as costs.

(e) On appeal of the associate judge's report or proposed order, the referring court may consider testimony or other evidence in the record if the record is taken by a court reporter. [At the request of a party, the master shall make a record of the evidence offered and excluded. The record must be in the same form as a record of evidence for a trial court.]

The floor amendment was read and was adopted without objection.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 3384** as follows:

(1) Strike SECTION 12 of the bill, amending Section 54.511, Government Code, and renumber subsequent SECTIONS accordingly.

(2) In SECTION 13 of the bill (page 3, line 21), strike "54.512" and substitute "54.511".

The floor amendment was read and was adopted without objection.

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

HB 3384 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 3384 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3384** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

HOUSE BILL 3594 ON SECOND READING

Senator Ogden moved to suspend the regular order of business to take up for consideration **HB 3594** at this time on its second reading:

HB 3594, Relating to the creation, administration, powers, duties, operation, and financing of the Williamson County Municipal Utility District No. 14.

The motion prevailed by a viva voce vote.

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

HOUSE BILL 3594 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3594** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

COMMITTEE SUBSTITUTE HOUSE BILL 1487 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1487** at this time on its second reading:

CSHB 1487, Relating to the licensing and regulation of certain electricians; providing penalties.

The bill was read second time.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1487** as follows:

(1) In SECTION 1 of the bill, in proposed Section 1305.002, Occupations Code, between Subdivisions (8) and (9) of that section (committee printing, page 1, between lines 45 and 46), insert the following:

(9) "Electrical sign contracting" means the business of designing, manufacturing, installing, connecting, reconnecting, or servicing an electric sign, cold cathode, neon gas tubing, or outline gas tubing, or altering electric sign wiring or conductors either inside or outside of a building.

(10) "Electrical sign contractor" means a person engaged in electrical sign contracting.

(2) In SECTION 1 of the bill, in proposed Section 1305.002, Occupations Code, in Subdivision (9) of that section (committee printing, page 1, line 46), strike "(9)" and substitute "(11)".

(3) In SECTION 1 of the bill, in proposed Section 1305.002, Occupations Code, in Subdivision (10) of that section (committee printing, page 1, line 53), strike "(10)" and substitute "(12)".

(4) In SECTION 1 of the bill, in proposed Section 1305.002, Occupations Code, in Subdivision (11) of that section (committee printing, page 1, line 55), strike "(11)" and substitute "(13)".

(5) In SECTION 1 of the bill, in proposed Section 1305.102, Occupations Code, in Subsection (a) of that section (committee printing, page 4, lines 10 and 11), between "electricians" and "and electrical contractors", insert ", sign electricians, electrical sign contractors,".

(6) In SECTION 1 of the bill, in proposed Section 1305.162(b), Occupations Code (committee printing, page 5, line 67), between "installations" and "and", insert "related to the activities that may be performed within each class of license under this chapter".

The floor amendment was read and was adopted without objection.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 1487** as follows:

(1) In SECTION 1 of the bill, in proposed Section 1305.303(a), Occupations Code, after Subdivision (2) of that subsection (committee printing, page 8, line 28), strike "or".

(2) In SECTION 1 of the bill, in proposed Section 1305.303(a), Occupations Code, in Subdivision (3) of that subsection (committee printing, page 8, line 30), after "chapter" strike the underlined period and substitute "; or".

(3) In SECTION 1 of the bill, in proposed Section 1305.303, Occupations Code, between Subsections (a) and (b) of that section (committee printing, page 8, between lines 30 and 31), insert the following:

(4) falsifies a certification of on-the-job training.

(4) In SECTION 3 of the bill, between Subsections (i) and (j) of that section (committee printing, page 9, between lines 52 and 53), insert:

(j) On-the-job training required by this section must be certified by a master electrician or master sign electrician, as appropriate.

(5) In SECTION 3 of the bill, in Subsection (j) of that section (committee printing, page 9, line 53), strike "(j)" and substitute "(k)".

The floor amendment was read and was adopted without objection.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 1487** as follows:

(1) In SECTION 1 of the bill, in proposed Section 1305.003(a), Occupations Code, between Subdivisions (14) and (15) of that subsection (committee printing, page 2, between lines 65 and 66), insert the following:

(15) the installation, maintenance, alteration, or repair of elevators, escalators, or related equipment, excluding any required power source, regulated under Chapter 754, Health and Safety Code;

(2) In SECTION 1 of the bill, in proposed Section 1305.003(a), Occupations Code, in Subdivision (15) of that subsection (committee printing, page 2, line 66), strike "(15)" and substitute "(16)".

(3) In SECTION 1 of the bill, in proposed Section 1305.003(a), Occupations Code, in Subdivision (16) of that subsection (committee printing, page 3, line 1), strike "(16)" and substitute "(17)".

The floor amendment was read and was adopted without objection.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 1487**, in SECTION 2 of the bill, in Subsection (b) of that SECTION (committee printing, page 8, line 34), between "1305.151" and "and 1305.303", by inserting ", 1305.166,".

The floor amendment was read and was adopted without objection.

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

CSHB 1487 as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1487 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1487** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

HOUSE BILL 3035 ON THIRD READING

The Presiding Officer, Senator Carona in Chair, laid before the Senate **HB 3035** on its third reading. The Constitutional Three-day Rule had been suspended and further consideration temporarily postponed:

HB 3035, Relating to the power of groundwater conservation districts to regulate the spacing of water wells and the production of groundwater.

Question — Shall **HB 3035** be read third time?

HB 3035 was read third time.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **HB 3035** by adding the following appropriately numbered section to read as follows:

SECTION _____. Notwithstanding any provision in this Act to the contrary, the change in law to Section 36.116(a)(2)(E), as added by this Act, is effective September 1, 2005.

The floor amendment was read and was adopted without objection.

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

HB 3035 as again amended was finally passed by a viva voce vote.

RECORD OF VOTE

Senator Wentworth asked to be recorded as voting "Nay" on the final passage of **HB 3035**.

HOUSE BILL 3635 ON SECOND READING

Senator Ratliff moved to suspend the regular order of business to take up for consideration **HB 3635** at this time on its second reading:

HB 3635, Relating to the creation, administration, powers, duties, operation, and financing of the Upshur County Groundwater Conservation District.

The motion prevailed by a viva voce vote.

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

HOUSE BILL 3635 ON THIRD READING

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3635** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

(Senator Averitt in Chair)

**VOTE RECONSIDERED ON
HOUSE BILL 645**

On motion of Senator Armbrister and by unanimous consent, the vote by which **HB 645** was finally passed was reconsidered:

HB 645, Relating to prohibiting the creation or enforcement of certain restrictive covenants that undermine water conservation.

Question — Shall **HB 645** be finally passed?

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **HB 645** in SECTION 1 of the bill, in Section 202.007, Property Code, by striking Subsection (a) (page 1, lines 17-32, Senate committee printing) and substituting the following:

(a) A property owners' association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts a property owner from:

(1) implementing measures promoting solid-waste composting of vegetation, including grass clippings, leaves, or brush, or leaving grass clippings uncollected on grass;

(2) installing rain barrels or a rainwater harvesting system; or

(3) implementing efficient irrigation systems, including underground drip or other drip systems.

The floor amendment was read and was adopted without objection.

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

HB 645 as again amended was again finally passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1297 ON SECOND READING**

Senator Armbrister moved to suspend the regular order of business to take up for consideration **CSHB 1297** at this time on its second reading:

CSHB 1297, Relating to limits on indemnification of state employees and officials.

The motion prevailed by a viva voce vote.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 1297 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1297** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

(Senator Armbrister in Chair)

**COMMITTEE SUBSTITUTE
HOUSE BILL 2095 ON SECOND READING**

On motion of Senator Staples and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2095** at this time on its second reading:

CSHB 2095, Relating to provision of workers' compensation insurance coverage through a certified self-insurance group; providing penalties.

The bill was read second time.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2095**, in SECTION 1 of the bill, in added Section 407A.251, Labor Code, by striking Subsection (d) of that section (page 6, lines 55-57, Senate committee printing) and substituting the following:

(d) The audited financial statements required by this section must be accompanied by an actuarial opinion on the adequacy of the group's loss reserves, including the reasonableness of any reserve discount. The actuarial opinion must be given by a member in good standing of the American Academy of Actuaries and the Casualty Actuarial Society.

The floor amendment was read and was adopted without objection.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 2095** as follows:

(1) In SECTION 1 of the bill, in added Section 407A.053(c), Labor Code (page 4, line 23, Senate committee printing), strike "not to exceed \$300,000" and substitute "equal to the greater of \$300,000 or 25 percent of the group's total incurred liabilities for workers' compensation".

(2) In SECTION 1 of the bill, in added Subchapter H, Chapter 407A, Labor Code (page 9, between lines 10 and 11, Senate committee printing), insert the following new Sections 407A.356 and 407A.357:

Sec. 407A.356. GUARANTY MECHANISM. (a) In the event of a liquidation under Section 407A.355, after exhausting the security required under Section 407A.053 and levying an assessment against the members of an insolvent group under Section 407A.355(g), the commissioner shall levy an assessment against all groups as necessary to ensure prompt payment of:

(1) benefits; and

(2) expenses related to payment of benefits.

(b) The assessment under this section on each group shall be based on the proportion that the premium of each group bears to the total premium of all groups.

(c) The commissioner may exempt a group from assessment under this section on a determination that the payment of the assessment would render the group insolvent.

(d) The assessment under this section does not relieve any member of an insolvent group of its joint and several liability.

(e) Subject to Section 407A.357(d), this section expires on creation of the Texas Group Self-Insurance Guaranty Association under Section 407A.357.

Sec. 407A.357. TEXAS GROUP SELF-INSURANCE GUARANTY ASSOCIATION; ADVISORY COMMITTEE. (a) Subject to Subsection (d), the Texas Group Self-Insurance Guaranty Association shall be established not later than January 1, 2006, based on recommendations from the guaranty association advisory committee established under Subsection (b). The guaranty association shall provide for the payment of workers' compensation insurance benefits and expenses related to payment of those benefits for the injured employees of an insolvent group.

(b) The guaranty association advisory committee is composed of the following voting members:

(1) three members who represent different groups under this chapter, subject to Subsection (c);

(2) one commission member who represents wage earners;

(3) one member designated by the commissioner; and

(4) the public counsel of the office of public insurance counsel.

(c) If three groups under this chapter have not been established by July 1, 2004, the advisory committee shall include representatives of any certified groups, and the commissioner shall choose the remaining voting members under Subsection (b)(1):

(1) from members of a bona fide trade association in this state that is eligible for and has applied for a certificate of approval; or

(2) if an association described by Subdivision (1) does not exist as of July 1, 2004, from any association in this state representing employers in the same or a similar business that has been in existence for at least five years for purposes other than obtaining insurance coverage.

(d) If the advisory committee under this section recommends that a guaranty association not be created, the guaranty mechanism under Section 407A.356 continues in effect.

The floor amendment was read and was adopted without objection.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 2095** as follows:

(1) Insert the following new SECTIONS in the bill (page 10, between lines 1 and 2, Senate committee printing):

SECTION 3. Article 5.57A(a)(3), Insurance Code, is amended to read as follows:

(3) "Group" means:

(A) two or more business entities that join together with the approval of the Board to purchase individual workers' compensation insurance policies covering each business entity that is a part of the group; or

(B) two or more members of a trade association of business entities that join together to purchase individual workers' compensation insurance policies covering each participating trade association member.

SECTION 4. Articles 5.57A(b) and (c), Insurance Code, are amended to read as follows:

(b) On receiving approval of the Board as provided by this article, two or more business entities or two or more members of a trade association may join together to form a group to purchase individual workers' compensation insurance policies covering each member of the group.

(c) To be eligible to join a group, a business entity must be:

(1) engaged in a business pursuit that is the same as or similar to the other business entities participating in the group as determined by the Board; or

(2) a member of the same trade association as the other business entities participating in the group.

(2) Renumber existing SECTION 3 of the bill (page 10, line 2, Senate committee printing) as SECTION 5 of the bill.

The floor amendment was read and was adopted without objection.

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

CSHB 2095 as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2095 ON THIRD READING**

Senator Staples moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2095** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

RECORD OF VOTE

Senator Brimer asked to be recorded as voting "Nay" on the final passage of **CSHB 2095**.

HOUSE BILL 3190 ON SECOND READING

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3190** at this time on its second reading:

HB 3190, Relating to the refund or retention by a landlord of a security deposit under a commercial lease.

The bill was read second time and was passed to third reading without objection.

HOUSE BILL 3190 ON THIRD READING

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3190** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 3042 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3042** at this time on its second reading:

CSHB 3042, Relating to the administration and functions of the Texas Building and Procurement Commission and related matters.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 3042** (Senate committee printing) as follows:

(1) In Section 2.01 of the bill, in added Section 2165.007(b)(7), Government Code (page 1, line 58), after the semicolon, strike "or".

(2) In Section 2.01 of the bill, in added Section 2165.007(b)(8), Government Code (page 1, line 59), strike the period and substitute the following:

; or

(9) a facility located within or on state park property.

The floor amendment was read and was adopted without objection.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 3042** by adding a new appropriately numbered ARTICLE ____ of the bill and renumber subsequent ARTICLES accordingly:

SECTION ____.01. Section 466.101, Government Code, is amended by adding Subsections (f) through (i) to read as follows:

(f) To maintain consistency with state purchasing laws under Chapter 2155, the executive director, in awarding a contract under this chapter or evaluating bid or proposal relating to a contract, the executive director may consider a vendor's economic impact to the state or a political subdivision of the state.

(g) For contracts for which the executive director will consider a vendor's economic impact under Subsection (f), the commission by rule shall prescribe:

(1) the type of documentation a vendor must submit to demonstrate the vendor's potential economic impact; and

(2) the manner and methodology by which the executive director will evaluate a vendor's economic impact.

(h) The methodology developed under Subsection (g) to determine a vendor's economic impact to this state or a political subdivision of this state is subject to audit by the state auditor based on a risk assessment performed by the state auditor and subject to the legislative audit committee's approval for inclusion of the work in the audit plan under Section 321.013(c).

(i) In this section, "economic impact" means the number of:

(1) current employees in this state and the amount of wages being paid to those employees, including any subcontractors' employees and wages; and

(2) full-time equivalent positions to be created in this state and the additional amount of wages to be paid to employees in this state as a result of awarding a contract, including a proposed subcontractor's employees and wages.

The floor amendment was read and was adopted without objection.

Senator Harris offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 3042** as follows:

On page 1, line 55, insert the following after "," and before "and": "the Bob Bullock Texas State History Museum,".

The floor amendment was read and was adopted without objection.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 4

1) Amend **CSHB 3042** by deleting Subdivision (6) on page 3, line 2 and substituting the following:

(6) aircraft hangar space other than hangar space and adjacent space leased by the State Aircraft Pooling Board at Austin-Bergstrom International Airport and operated for the purposes of providing air transportation services for the state of Texas;

2) Amend **CSHB 3042** by adding Subsection (c) on page 9, line 45, to read as follows:

(c) Proceeds from the sale of surplus and salvage property of the State Aircraft Pooling Board shall be deposited to the credit of the Board.

3) Amend **CSHB 3042** by adding Subsection (c) on page 9, line 66, to read as follows:

(c) Proceeds from the sale of surplus and salvage property of the State Aircraft Pooling Board shall be deposited to the credit of the Board.

The floor amendment was read and was adopted without objection.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 3042** by inserting the following appropriately numbered SECTION of the bill and by renumbering the SECTIONS of the bill accordingly:

SECTION _____. CARLOS F. TRUAN NATURAL RESOURCES CENTER. (a) The natural resources center located at Texas A&M University at Corpus Christi that was dedicated on August 6, 1996, shall be known as the Carlos F. Truan Natural Resources Center.

(b) The Texas Building and Procurement Commission shall take appropriate action to ensure that the center is identified as provided by this section.

The floor amendment was read and was adopted without objection.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSHB 3042** (Senate committee printing), on page 2, between lines 59-60, by adding new subsections (h)-(j), to read as follows:

"(h) Non-profit, charitable and other community organizations may apply to use state parking lots and garages located in the city of Austin in the area bordered by West Fourth Street, Lavaca Street, West Third Street, and Nueces Street free of charge or at a reduced rate. The executive director shall develop a form to be used to make such applications. The form shall require information related to:

(1) the dates and times of the free use requested;

(2) the nature of the applicant's activities associated with the proposed use of state parking lots and garages; and

(3) any other information determined by the executive director to be necessary to evaluate an application.

(i) To be considered timely, an application must be submitted at least one month before the proposed use, unless this provision is waived by the executive director."

(j) The executive director may approve or reject an application made under subsection (h)."

The floor amendment was read and was adopted without objection.

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

CSHB 3042 as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3042 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3042** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2912 ON SECOND READING**

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2912** at this time on its second reading:

CSHB 2912, Relating to industrial development corporations; providing a civil penalty.

The bill was read second time.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 2912** (Senate committee printing) as follows:

(1) In SECTION 1 of the bill, in amended Section 2(11)(A), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes) (page 1, line 51), between "roads," and "water", insert "rail spurs".

(2) In SECTION 2 of the bill, in added Section 2(18), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes) (page 2, line 25), strike "construction and occupancy" and substitute "construction or occupancy".

The floor amendment was read and was adopted without objection.

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

CSHB 2912 as amended was passed to third reading without objection.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2912 ON THIRD READING**

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2912** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 3622 ON SECOND READING

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3622** at this time on its second reading:

HB 3622, Relating to the creation, administration, powers, duties, operation, and financing of the Kingsborough Municipal Utility District No. 1 of Kaufman County.

The bill was read second time.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3622** (Senate committee printing) by striking all below the enacting clause and substituting the following:

SECTION 1. DEFINITIONS. In this Act:

(1) "Board" or "boards" means, as appropriate, the board of directors of one or all of the Kingsborough municipal utility districts.

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "District" or "districts" means, as appropriate, one or all of the Kingsborough Municipal Utility District Nos. 1, 2, 3, 4, and 5 of Kaufman County.

SECTION 2. CREATION. (a) Five conservation and reclamation districts, to be known as the Kingsborough Municipal Utility District Nos. 1, 2, 3, 4, and 5 of Kaufman County, are created in Kaufman County, subject to approval at a confirmation election under Section 13 of this Act.

(b) Each district is a governmental agency and a political subdivision of this state.

SECTION 3. AUTHORITY FOR CREATION. Each district is created under and is essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

SECTION 4. FINDING OF BENEFIT AND PUBLIC PURPOSE. (a) Each district is created to serve a public use and benefit.

(b) All of the land and other property included within the boundaries of each district will be benefited by the works and projects that are to be accomplished by the district under powers conferred by Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

SECTION 5. BOUNDARIES. The boundaries of each district are as follows:

(1) Kingsborough Municipal Utility District No. 1:

BEING all that certain lot, tract or parcel of land located in the J. G. Moore Survey, Abstract No. 309 and the Martha Musick Survey, Abstract No. 312, Kaufman County, Texas, and being more particularly described by metes and bounds as follows:

COMMENCING at the intersection of the of the Northeasterly right-of-way line of Farm-Market 2757 (a 100 foot wide right-of-way), and the Northwesterly line of said J. G. Moore Survey and the Southeasterly line of said Martha Musick Survey;

THENCE North 44 deg. 34 min. 48 sec. East, along the common line between said J. G. Moore Survey and the Martha Musick Survey, a distance of 1644.55 feet, to the POINT OF BEGINNING of the herein described tract of land;

THENCE North 44 deg. 34 min. 48 sec. East, continuing along the common line between said J. G. Moore Survey and the Martha Musick Survey, a distance of 2015.87 feet;

THENCE North 44 deg. 20 min. 17 sec. West, departing said common line, a distance of 763.42 feet;

THENCE North 44 deg. 46 min. 22 sec. East, a distance of 110.79 feet;

THENCE North 45 deg. 13 min. 38 sec. West, a distance of 1367.42 feet;

THENCE North 44 deg. 46 min. 22 sec. East, a distance of 247.49 feet;

THENCE South 68 deg. 13 min. 38 sec. East, a distance of 627.70 feet;

THENCE North 44 deg. 26 min. 44 sec. East, a distance of 853.26 feet;

THENCE North 45 deg. 59 min. 01 sec. West, a distance of 1118.32 feet;

THENCE North 25 deg. 16 min. 32 sec. East, a distance of 918.27 feet;

THENCE North 27 deg. 53 min. 12 sec. East, a distance of 712.32 feet;

THENCE North 44 deg. 02 min. 09 sec. East, a distance of 693.71 feet, to the Southwesterly right-of-way line of High Country Lane (a 60 foot wide right-of-way);

THENCE South 45 deg. 14 min. 23 sec. East, along the Southwesterly right-of-way line of said High Country Lane, a distance of 263.11 feet, to the intersection of the Southwesterly right-of-way line of said High Country Lane and the Southwesterly right-of-way line of Farm-Market 741 (a variable width right-of-way), and being the beginning of a non-tangent curve to the left having a radius of 999.93 feet;

THENCE along the Southwesterly right-of-way line of said Farm-Market 741 as follows;

Along said non-tangent curve to the left and in a Southeasterly direction, through a central angle of 09 deg. 56 min. 12 sec., an arc length of 173.42 feet, said non-tangent curve also having a long chord which bears South 40 deg. 16 min. 17 sec. East, 173.20 feet;

South 45 deg. 14 min. 23 sec. East, a distance of 1653.79 feet, to the beginning of a non-tangent curve to the left having a radius of 11,472.09 feet;

Along said non-tangent curve to the left and in a Southeasterly direction, through a central angle of 03 deg. 05 min. 42 sec., an arc length of 619.69 feet, said non-tangent curve to the left having a long chord which bears South 46 deg. 47 min. 14 sec. East, 619.62 feet;

South 45 deg. 21 min. 23 sec. East, a distance of 182.35 feet, to the beginning of a non-tangent curve to the left having a radius of 2993.57 feet;

Along said non-tangent curve to the left and in a Southeasterly direction, through a central angle of 04 deg. 13 min. 00 sec., an arc length of 220.31 feet, said non-tangent curve to the left also having a long chord which bears South 47 deg. 27 min. 53 sec. East, 220.26 feet;

South 49 deg. 34 min. 23 sec. East, a distance of 222.84 feet, to the beginning of a curve to the left having a radius of 1858.59 feet;

Along said curve to the left and in a Southeasterly direction, through a central angle of 07 deg. 34 min. 00 sec., an arc length of 245.45 feet, said curve to the left also having a long chord which bears South 53 deg. 21 min. 23 sec. East, 245.27 feet;

South 57 deg. 08 min. 23 sec. East, a distance of 300.24 feet, to the beginning of a curve to the left having a radius of 11,472.09 feet;

Along said curve to the left and in a Southwesterly direction, through a central angle of 02 deg. 58 min. 15 sec., an arc length of 594.81 feet, said curve to the left also having a long chord which bears South 55 deg. 39 min. 16 sec. East, 594.75 feet; South 57 deg. 06 min. 23 sec. East, a distance of 327.99 feet, to the beginning of a curve to the right having a radius of 5684.58 feet;

Along said curve to the right and in a Southeasterly direction, through a central angle of 12 deg. 08 min. 00 sec., an arc length of 1203.80 feet, said curve also having a long chord which bears South 51 deg. 02 min. 23 sec. East, 1201.56 feet; South 44 deg. 58 min. 23 sec. East, a distance of 755.25 feet; South 45 deg. 13 min. 23 sec. East, a distance of 238.92 feet, to the North corner of the Dallas East Estates which is located to the Southwest of said Farm-Market 741;

THENCE South 44 deg. 19 min. 24 sec. West, departing the Southwesterly right-of-way line of said Farm-Market 741 and along the Northwesterly boundary line of said Dallas East Addition, a distance of 1401.27 feet, to the most Westerly corner of said Dallas East Addition;

THENCE South 44 deg. 45 min. 48 sec. East, along the most Southwesterly boundary line of said Dallas East Addition, a distance of 1444.80 feet, to the Northwesterly right-of-way line of said Farm-Market 741;

THENCE along the Northwesterly right-of-way line of said Farm-Market 741 as follows;

South 44 deg. 20 min. 25 sec. West, a distance of 545.05 feet;

North 45 deg. 39 min. 35 sec. West, a distance of 10.00 feet;

South 44 deg. 20 min. 25 sec. West, a distance of 700.00 feet;

South 45 deg. 39 min. 35 sec. East, a distance of 10.00 feet;

South 44 deg. 20 min. 25 sec. West, a distance of 933.41 feet;

THENCE North 49 deg. 43 min. 48 sec. East, departing the Northwesterly right-of-way line of said Farm-Market 741, a distance of 794.74 feet;

THENCE North 78 deg. 41 min. 33 sec. West, a distance of 280.00 feet;

THENCE North 46 deg. 19 min. 02 sec. West, a distance of 1073.59 feet;

THENCE North 66 deg. 21 min. 14 sec. East, a distance of 1045.54 feet;

THENCE South 81 deg. 36 min. 53 sec. West, a distance of 327.60 feet;

THENCE South 72 deg. 56 min. 15 sec. West, a distance of 778.38 feet;

THENCE South 87 deg. 16 min. 19 sec. West, a distance of 610.31 feet;

THENCE North 77 deg. 32 min. 02 sec. West, a distance of 731.98 feet;

THENCE North 58 deg. 36 min. 37 sec. West, a distance of 578.95 feet, to the POINT OF BEGINNING and containing 692.696 acres (30,173,840 square feet) of land.

(2) Kingsborough Municipal Utility District No. 2:

BEING all that certain lot, tract or parcel of land located in the J. G. Moore Survey, Abstract No. 309, Kaufman County, Texas, and being a portion of that certain tract of land described as Tract K31 in the deed to West Foundation, according to the deed filed for record in Volume 720, Page 860 of the Deed Records of Kaufman County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at the intersection of the Southwesterly boundary line of said Tract K31 and the Southeasterly right-of-way line of Farm-Market 741 (a 90 foot wide right-of-way), said iron rod being in the center of County Road No. 269;

THENCE along the Southwesterly right-of-way line of said Farm-Market 741 as follows:

North 43 deg. 59 min. 38 sec. East, along the Southeasterly right-of-way line of said Farm-Market 741, a distance of 2525.09 feet;

North 44 deg. 20 min. 25 sec. East, a distance of 4582.54 feet, to the beginning of a curve to the left having a radius of 761.20 feet;

Along said curve to the left, through a central angle of 11 deg. 23 min. 36 sec., an arc length of 151.37 feet and having a long chord which bears North 38 deg. 38 min. 37 sec. East, 151.12 feet;

North 44 deg. 20 min. 25 sec. East, a distance of 463.83 feet, to the beginning of a curve to the left having a radius of 127.30 feet;

Along said curve to the left, through a central angle of 40 deg. 09 min. 07 sec., an arc length of 89.21 feet and having a long chord which bears North 24 deg. 15 min. 15 sec. East, 87.40 feet;

THENCE North 44 deg. 20 min. 24 sec. East, along the Northwesterly line of said Tract K31, a distance of 14.48 feet, to a point in County Road No. 260 (an undefined width right of way);

THENCE South 46 deg. 07 min. 54 sec. East, along said County Road No. 260, a distance of 3434.03 feet;

THENCE South 44 deg. 14 min. 23 sec. West, departing said County Road No. 260, a distance of 5193.79 feet, to the beginning of a non-tangent curve to the left having a radius of 2640.00 feet;

THENCE along said non-tangent curve to the left, through a central angle of 90 deg. 07 min. 01 sec., an arc length of 4152.29 feet, and having a long chord which bears South 89 deg. 10 min. 52 sec. West, 3737.33 feet, to a point in County Road No. 269 (an undefined width right-of-way);

THENCE North 45 deg. 52 min. 38 sec. West, along said County Road No. 269, a distance of 747.41 feet to the POINT OF BEGINNING and containing 484.081 acres (21,086,547 square feet) of land.

(3) Kingsborough Municipal Utility District No. 3:

BEING all that certain lot, tract or parcel of land located in the J. G. Moore Survey, Abstract No. 309, Kaufman County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at the intersection of the of the Northeasterly right-of-way line of Farm-Market 2757 (a 100 foot wide right-of-way), and the Northwesterly line of said J. G. Moore Survey and the Southeasterly line of said Martha Musick Survey;

THENCE North 44 deg. 34 min. 48 sec. East, along the common line between said J. G. Moore Survey and the Martha Musick Survey, a distance of 1644.55 feet;

THENCE South 58 deg. 36 min. 37 sec. East, departing said common line, a distance of 578.95 feet;

THENCE South 77 deg. 32 min. 02 sec. East, a distance of 731.98 feet;

THENCE North 87 deg. 16 min. 19 sec. East, a distance of 610.31 feet;

THENCE North 72 deg. 56 min. 15 sec. East, a distance of 778.38 feet;

THENCE North 81 deg. 36 min. 53 sec. East, a distance of 327.60 feet;
THENCE South 66 deg. 21 min. 14 sec. East, a distance of 1045.54 feet;
THENCE South 46 deg. 19 min. 02 sec. East, a distance of 1073.59 feet;
THENCE South 78 deg. 41 min. 33 sec. East, a distance of 280.00 feet;
THENCE South 49 deg. 43 min. 48 sec. East, a distance of 794.74 feet, to a point on the Northwesterly right-of-way line of Farm- Market 741 (an 80 foot wide right-of-way);

THENCE along the Northwesterly right-of-way line of said Farm- Market 741 as follows;

South 44 deg. 20 min. 25 sec. West, a distance of 1657.58 feet;

South 43 deg. 59 min. 38 sec. West, a distance of 2422.82 feet, to the intersection of the Northwesterly right-of-way line of said Farm-Market 741 and the Northeasterly right-of-way line of the aforementioned Farm-Market 2757;

THENCE along the Northeasterly right-of-way line of said Farm-Market 2757 as follows;

South 89 deg. 23 min. 24 sec. West, a distance of 138.28 feet;

North 44 deg. 17 min. 39 sec. West, a distance of 1248.09 feet;

North 45 deg. 23 min. 39 sec. West, a distance of 624.62 feet;

North 45 deg. 36 min. 39 sec. West, a distance of 3302.91 feet, to the POINT OF BEGINNING and containing 392.241 acres (17,086,006 square feet) of land.

(4) Kingsborough Municipal Utility District No. 4:

BEING all that certain lot, tract or parcel of land located in the Martha Musick Survey, Abstract No. 312 and the J. G. Moore Survey, Abstract No. 309, Kaufman County, Texas, and being the remainder of those certain tracts of land described as Tracts K14 through K20, in the deed the West Foundation, as filed for record in Volume 720, Page 860 of the Deed Records of Kaufman County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at the intersection of the Southerly right-of-way line of Interstate 20 (a variable width right-of-way) and the Southeasterly right-of-way line of Farm-Market 741 (a variable width right-of-way at this point);

THENCE along the Southerly right-of-way line of said Interstate 20 as follows;

North 83 deg. 22 min. 27 sec. East, a distance of 751.86 feet; North 88 deg. 29 min. 25 sec. East, a distance of 474.54 feet; South 84 deg. 18 min. 42 sec. East, a distance of 952.45 feet; South 78 deg. 59 min. 16 sec. East, a distance of 4.49 feet to the intersection of the Southerly right-of-way line of Interstate 20 and the Northeasterly boundary line of the aforementioned Tract K17, said point also being the intersection of the said Southerly right-of-way line and the Southwesterly boundary line of that certain called 113.75 acre tract of land conveyed to Austin W. Shipley, according to the deed filed for record in Volume 270, Page 221, Deed Records, Kaufman County, Texas;

THENCE South 45 deg. 06 min. 28 sec. East, along the common boundary line between said Tract K17 and said called 113.75 acre tract, at a distance of approximately 1240 feet passing the most Southerly corner of said called 113.75 acre tract and the East corner of that certain tract of land conveyed to Gordon T. West, according to the deed filed for record in Volume 1636, Page 43, Deed Records, Kaufman County, Texas, and continuing along the common boundary line between

said Tract K17 and said Gordon T. West tract, in all a distance of 2131.39 feet to the Northwest boundary line of that certain called 300 acre tract of land conveyed to Gordon T. West, according to the deed filed for record in Volume 1636, Page 43, Deed Records, Kaufman County, Texas;

THENCE South 44 deg. 34 min. 38 sec. West, along the common boundary line of said Tract K17 and said called 300 acre tract, and generally along a barbed wire fence, a distance of 1891.96 feet, to the South corner of said Tract K17 and the West corner of said called 300 acre tract, said iron rod also being the North corner of the aforementioned Tract K19;

THENCE South 46 deg. 09 min. 59 sec. East, along the common boundary line between said called 300 acre tract and said Tract K19, a distance of 3513.32 feet, to the Northwesterly right-of-way line of Griffin Lane (a 50 foot wide right-of-way);

THENCE South 43 deg. 50 min. 01 sec. West, along the Northwesterly right-of-way line of said Griffin Lane, a distance of 2649.80 feet, to the Northeasterly right-of-way line of the aforementioned Farm-Market 741;

THENCE along the Northeasterly right-of-way line of said Farm-Market 741 as follows;

North 45 deg. 13 min. 23 sec. West, a distance of 4.98 feet;

North 44 deg. 58 min. 23 sec. West, at a distance of 632.24 feet passing a wood monument found, and continuing in all a distance of 755.05 feet, said point being the beginning of a curve to the left having a radius of 5774.58 feet;

Along said curve to the left, through a central angle of 12 deg. 08 min. 00 sec., an arc length of 1222.86 feet, and having a long chord of North 51 deg. 02 min. 23 sec. West, 1220.58 feet;

North 57 deg. 06 min. 23 sec. West, generally along a barbed wire fence, a distance of 328.05 feet, said point being the beginning of a curve to the right having a radius of 11,382.09 feet;

Along said curve to the right and along said fence, through a central angle of 11 deg. 54 min. 00 sec., an arc length of 2363.99 feet, and having a long chord which bears North 51 deg. 11 min. 23 sec. West, 2359.75 feet;

North 45 deg. 14 min. 23 sec. West, generally along said fence, a distance of 1653.79 feet, said point being the beginning of a curve to the right having a radius of 909.93 feet;

THENCE along said curve to the right and along the Easterly right-of-way line of said Farm-Market 741 and generally along said fence, through a central angle of 90 deg. 33 min. 04 sec., an arc length of 1438.07 feet, and having a long chord which bears North 00 deg. 02 min. 09 sec. East, 1293.01 feet;

THENCE along the Southeasterly right-of-way line of said Farm-Market 741 as follows;

North 45 deg. 18 min. 41 sec. East, a distance of 199.54 feet;

North 46 deg. 06 min. 41 sec. East, a distance of 1039.75 feet;

North 46 deg. 21 min. 41 sec. East, a distance of 759.38 feet, said point being the beginning of a curve to the left having a radius of 999.93 feet;

Along said curve to the left, through a central angle of 14 deg. 28 min. 00 sec., an arc length of 252.47 feet, and having a long chord which bears North 39 deg. 07 min. 41 sec. East, 251.80 feet;

North 31 deg. 53 min. 41 sec. East, a distance of 210.50 feet, said point being the beginning of a curve to the right having a radius of 909.38 feet;

Along said curve to the right, through a central angle of 01 deg. 00 min. 31 sec., an arc length of 16.01 feet, and having a long chord which bears North 32 deg. 23 min. 57 sec. East, 16.01 feet to the POINT OF BEGINNING and containing 606.441 acres (26,416,564 square feet) of land.

(5) Kingsborough Municipal Utility District No. 5:

BEING all that certain lot, tract or parcel of land located in the J. G. Moore Survey, Abstract No. 309, Kaufman County, Texas, and being a portion of that certain tract of land described as Tract K31 in the deed to West Foundation, according to the deed filed for record in Volume 720, Page 860 of the Deed Records of Kaufman County, Texas, and being more particularly described by metes and bounds as follows:

BEGINNING at a 5/8 inch iron rod found for the South corner of said Tract K31, said iron rod being in County Road No. 269 (an undefined width public roadway);

THENCE North 45 deg. 52 min. 38 sec. West, along the Southwest boundary line of said Tract K31, and generally along said County Road No. 269, a distance of 2640.00 feet, said point being the beginning of a non-tangent curve to the right having a radius of 2640.00 feet;

THENCE departing the Southwest boundary line of said Tract K31, through a central angle of 90 deg. 07 min. 01 sec., an arc length of 4152.29 feet, said non-tangent curve also having a long chord which bears North 89 deg. 10 min. 52 sec. East, a distance of 3737.33 feet, to the Southeast boundary line of said Tract K31;

THENCE South 44 deg. 14 min. 23 sec. West, along the Southeast boundary line of said Tract K31, a distance of 2640.00 feet, to the POINT OF BEGINNING and containing 125.839 acres (5,481,550 square feet) of land.

SECTION 6. FINDINGS RELATING TO BOUNDARIES. The legislature finds that the boundaries and field notes of each district form a closure. If a mistake is made in the field notes or in copying the field notes in the legislative process, the mistake does not affect in any way:

- (1) the organization, existence, or validity of the district;
- (2) the right of the district to impose taxes; or
- (3) the legality or operation of the district or the board.

SECTION 7. GENERAL POWERS. Each district has all of the rights, powers, privileges, authority, functions, and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution. This Act prevails over any provision of general law that is in conflict or inconsistent with this Act.

SECTION 8. ADDITIONAL POWERS. (a) Each district has the additional rights, powers, privileges, authority, and functions provided by this section.

(b) To the extent authorized by Section 52, Article III, Texas Constitution, a district may provide for the construction, maintenance, and operation inside or outside the boundaries of the district of:

- (1) paved roads and turnpikes; or
- (2) works, facilities, or improvements related to the roads and turnpikes.

SECTION 9. BONDS. (a) Each district may issue bonds as provided by Chapters 49 and 54, Water Code, and the general laws of this state.

(b) A district may issue bonds, notes, or other obligations of the district to finance construction, maintenance, and operation under Section 8 of this Act and may impose a tax to pay the principal of or interest on bonds issued under this subsection.

(c) A district may not issue bonds under Subsection (b) of this section unless the issuance is approved by a vote of a two-thirds majority of the qualified voters of the district voting at an election called for that purpose. Bonds, notes, or other obligations issued or incurred under Subsection (b) of this section may not exceed one-fourth of the assessed value of the real property in the district.

(d) Sections 49.181 and 49.182, Water Code, do not apply to projects undertaken by a district under Section 8(b) of this Act or to bonds issued by a district under Subsection (b) of this section.

SECTION 10. EMINENT DOMAIN. (a) Within the boundaries of a district, a district may exercise the power of eminent domain for all public purposes.

(b) Outside the boundaries of a district, a district may exercise the power of eminent domain only for the purpose of constructing, acquiring, operating, repairing, or maintaining water supply lines or sanitary sewer lines.

(c) A district's power of eminent domain is exercised in the same manner as required for a county.

SECTION 11. BOARD OF DIRECTORS. (a) Each district is governed by a board of five directors.

(b) Temporary directors serve until initial directors are elected under Section 13 of this Act.

(c) Initial directors serve until permanent directors are elected under Section 14 of this Act.

(d) Permanent directors serve staggered four-year terms.

(e) Each director must qualify to serve as director in the manner provided by Section 49.055, Water Code.

SECTION 12. APPOINTMENT OF TEMPORARY DIRECTORS. (a) On or after the effective date of this Act, a person who owns land in a district may submit a petition to the commission requesting that the commission appoint as temporary directors the five persons named in the petition.

(b) Subject to Subsection (e) of this section, the commission shall appoint as temporary directors the five persons named in the first petition received by the commission for each district.

(c) If a temporary director fails to qualify for office, the commission shall appoint a person to fill the vacancy.

(d) As soon as practicable after all of the temporary directors have qualified, the temporary directors shall meet and elect officers from among their membership.

(e) The commission may appoint temporary directors for a district that is located wholly or partly within an area designated by ordinance or resolution of the City of Crandall as the water service area, extraterritorial jurisdiction, or corporate limits of that city only if the city has given its express written consent to the creation of the

district. The City of Crandall may give its consent only on the execution of a written agreement between the developer of the district and the Crandall Independent School District providing that the developer of the district will:

(1) fund the construction of buildings and improvements for the school district; and

(2) establish an educational fund for the school district of an amount based on an annually determined transaction fee on the sale and resale of any home within the district boundaries for the duration of the existence of the district.

SECTION 13. CONFIRMATION AND INITIAL DIRECTORS' ELECTION.

(a) Subject to Subsection (b) of this section, the temporary board of directors of each district shall call and hold an election to confirm establishment of the district and to elect five initial directors in the manner provided by Chapter 49, Water Code.

(b) A temporary board of directors may call and hold an election to confirm establishment of a district that is located wholly or partly within an area designated by ordinance or resolution of the City of Crandall as the water service area, extraterritorial jurisdiction, or corporate limits of that city only if the city has given its express written consent to the creation of the district. The City of Crandall may give its consent only on the execution of a written agreement between the developer of the district and the Crandall Independent School District providing that the developer of the district will:

(1) fund the construction of buildings and improvements for the school district; and

(2) establish an educational fund for the school district of an amount based on an annually determined transaction fee on the sale and resale of any home within the district boundaries for the duration of the existence of the district.

SECTION 14. ELECTION OF DIRECTORS. Each board shall call and hold elections to elect permanent directors in the manner provided by Chapter 49, Water Code.

SECTION 15. EFFECTIVE DATE; EXPIRATION DATE. (a) This Act takes effect September 1, 2003.

(b) If the creation of a district is not confirmed at a confirmation election held under Section 13 of this Act before September 1, 2005, the provisions of this Act relating to that district expire on that date.

The floor amendment was read and was adopted without objection.

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

HB 3622 as amended was passed to third reading without objection.

HOUSE BILL 3622 ON THIRD READING

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3622** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

HOUSE BILL 3534 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3534** at this time on its second reading:

HB 3534, Relating to the place of business of a retailer for purposes of the collection of the municipal sales and use tax.

The bill was read second time.

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3534** (Senate committee printing) as follows:

(1) In SECTION 3 of the bill (page 1, line 42), between "SECTION 3" and "This", insert "(a)".

(2) At the end of SECTION 3 of the bill (page 1, after line 46), insert the following:

(b) Notwithstanding Subsection (a) of this section, the change in law made to Section 321.002(a)(3), Tax Code, by this Act, may not, before September 1, 2005, be applied to an outlet, office, facility, or location that was in existence on May 27, 2003.

The floor amendment was read and was adopted without objection.

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

HB 3534 as amended was passed to third reading by a viva voce vote.

RECORD OF VOTE

Senator Jackson asked to be recorded as voting "Nay" on the passage of **HB 3534** to third reading.

HOUSE BILL 3534 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3534** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Jackson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

HOUSE BILL 109 ON SECOND READING

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 109** at this time on its second reading:

HB 109, Relating to customs brokers.

The bill was read second time.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 109** (Senate committee printing) by adding the following appropriately numbered SECTIONS and renumbering the SECTIONS of the bill appropriately:

SECTION _____. Subtitle Z, Title 3, Finance Code, is amended by adding Chapter 278 to read as follows:

CHAPTER 278. REGULATION OF CURRENCY TRANSMISSIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 278.001. DEFINITIONS. In this chapter:

(1) "Currency" has the meaning assigned by Section 153.001.

(2) "Currency transmission business" means engaging in or offering currency transmission as a service or for profit. The term does not include:

(A) a federally insured financial institution, as defined by Section 201.101, that is organized under the laws of this state, another state, or the United States; or

(B) a title insurance company or title insurance agent, as defined by Article 9.02, Insurance Code.

(3) "Currency transmission" means receiving currency or an instrument payable in currency in order to transmit the currency or its equivalent by wire, computer modem, facsimile, physical transport, or any other means or through the use of a financial intermediary, the Federal Reserve System, or another funds transfer network.

(4) "Fee" does not include revenue that a currency transmission business generates in connection with a currency transmission in the conversion of a currency of one government into the currency of another government.

[Sections 278.002-278.050 reserved for expansion]

SUBCHAPTER B. CURRENCY TRANSMISSION DISCLOSURES

Sec. 278.051. DISCLOSURES WITH TRANSACTION. (a) Other than in a telephonic transaction conducted on a telephone that is not designated for use in currency transmission transactions by a currency transmission business, at the time of a currency transmission transaction to another country the currency transmission business shall provide a receipt to the customer. The receipt must:

(1) clearly state the amount of currency presented for transmission and any fees charged by the currency transmission business; and

(2) provide a toll-free telephone number or a local number that a customer can access at no charge to receive information about a currency transmission.

(b) If the rate of exchange for a currency transmission to be paid in the currency of another country is fixed by the currency transmission business for a transaction at the time the currency transmission is initiated, the receipt must also disclose:

(1) the rate of exchange for that transaction;

(2) the amount to be paid in the foreign currency; and

(3) the period, if any, in which the payment must be made in order to qualify for the fixed rate of exchange.

(c) If the rate of exchange for a currency transmission to be paid in the currency of another country is not fixed at the time the currency transmission is initiated, the receipt must also disclose that the rate of exchange for the transaction will be set at the time the recipient of the currency transmission receives the funds in the foreign country.

(d) If the customer requests, the currency transmission business must provide the required disclosures before completing the transaction.

Sec. 278.052. CANCELLATION AND REFUND OF TRANSACTION. (a) Except as provided by Subsection (c), on receiving the transaction receipt required under Section 278.051, a customer may cancel the currency transaction:

(1) before leaving the premises of the currency transmission business; and

(2) not later than 30 minutes after the time at which the currency transmission was initiated.

(b) If the customer cancels the transaction, the currency transmission business shall immediately refund to the customer the fees paid and currency to be transmitted.

(c) A customer may not cancel a transaction after the recipient of the currency transmission has received the currency or its equivalent.

Sec. 278.053. LANGUAGE OF DISCLOSURE. A currency transmission business shall make the disclosures required by this chapter in English and, if the currency transmission is to a country where Spanish is widely spoken, in Spanish.

[Sections 278.054-278.100 reserved for expansion]

SUBCHAPTER C. ENFORCEMENT

Sec. 278.101. CIVIL PENALTY. (a) A person who knowingly violates this chapter is liable to the state for a civil penalty in an amount not to exceed \$1,000 for each violation. The attorney general or the prosecuting attorney in the county in which the violation occurs may bring:

(1) a suit to recover the civil penalty imposed under this section; and

(2) an action in the name of the state to restrain or enjoin a person from violating this chapter.

(b) The attorney general or the prosecuting attorney in the county in which the violation occurs, as appropriate, is entitled to recover reasonable expenses incurred in obtaining injunctive relief, civil penalties, or both, under this section, including reasonable attorney's fees, court costs, and investigatory costs.

SECTION _____. Chapter 278, Finance Code, as added by this Act, takes effect September 1, 2003.

The floor amendment was read and was adopted without objection.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 109** as follows:

(1) In SECTION 1 of the bill, amending Sec. 151.157(c), Tax Code (committee printing, page 1, line 43), strike "exemption certificates" and substitute "a certificate of export".

(2) In SECTION 1 of the bill, amending Sec. 151.157(e)(1), Tax Code (committee printing, page 2, line 19) after "issued" strike "exemption certificates" and substitute "certificates of export".

(3) In SECTION 1 of the bill, amending Sec. 151.157(e)(2), Tax Code, (committee printing, page 2, line 21), strike "exemption certificates" and substitute "certificates of export".

(4) In SECTION 1 of the bill, amending Sec. 151.157(f), Tax Code, (committee printing, page 2, line 24), strike "knowingly or intentionally".

(5) In SECTION 1 of the bill, amending Sec. 151.157, Tax Code, (committee printing, page 2, line 48), insert the following new subsections (h) and (i):

(h) Notwithstanding any other law, the filing of a petition to initiate judicial review does not vacate the comptroller decision that is the subject of review and does not affect the enforceability of that decision.

(i) The comptroller shall impose a penalty of \$500 for each occurrence on a customs broker who fails to file the report required by this section.

(6) In SECTION 4 of the bill, strike the amendment to Tax Code Sec. 151.307(e) (committee printing, page 4, lines 44-48).

The floor amendment was read and was adopted without objection.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 109**, in Section 3 of the bill, proposed Sec. 151.158(g) Tax Code, on page 4, line 13, by adding, "Customs brokers who return unused stamps to the Comptroller's Office on a quarterly basis, shall get credit towards the purchase of new stamps.".

The floor amendment was read and was adopted without objection.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 4

Amend **HB 109**, in Section 2 of the bill, proposed Sec. 151.1575(G)(i) Tax Code, on page 3, line 26, by adding, "for those purchasers in a county not bordering the United Mexican States".

The floor amendment was read and was adopted without objection.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 5

Amend **HB 109**, in Section 1 of the bill, proposed Sec. 151.157(a-1) Tax Code, on page 1, line 29, by adding, "The comptroller shall provide an alternate method to prepare documentation to show the exemption of tangible personal property under Section 151.307(b)(2) in those instances when the password-protected website is unavailable due to technical or communication problems.".

The floor amendment was read and was adopted without objection.

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

HB 109 as amended was passed to third reading without objection.

HOUSE BILL 109 ON THIRD READING

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 109** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 2006 ON SECOND READING**

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 2006** at this time on its second reading:

CSHB 2006, Relating to the construction and maintenance of utility, common carrier, cable operator, and energy transporter facilities along, over, under, or across a railroad right-of-way.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 2006 ON THIRD READING**

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2006** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

BILLS AND RESOLUTIONS SIGNED

The Presiding Officer, Senator Armbrister in Chair, announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

SB 155, SB 253, SB 282, SB 333, SB 401, SB 443, SB 478, SB 529, SB 530, SB 533, SB 616, SB 658, SB 716, SB 801, SB 803, SB 853, SB 939, SB 1067, SB 1226, SB 1326, SB 1439, SB 1452, SB 1517, SB 1565, SB 1574, SB 1601, SB 1646, SB 1744, SB 1833, SB 1896, SB 1934, SCR 53, SCR 57, SJR 45, HB 28, HB 148, HB 164, HB 174, HB 195, HB 219, HB 264, HB 554, HB 558, HB 562, HB 622, HB 686, HB 724, HB 728, HB 778, HB 823, HB 898, HB 912, HB 913, HB 919, HB 928, HB 1056, HB 1088, HB 1113, HB 1125, HB 1171, HB 1189, HB 1207, HB 1251, HB 1309, HB 1338, HB 1339, HB 1387, HB 1391, HB 1398, HB 1476, HB 1481, HB 1496, HB 1499, HB 1526, HB 1529, HB 1567, HB 1653, HB 1729, HB 1776, HB 1813, HB 1815, HB 1952, HB 1984, HB 2038, HB 2061, HB 2076, HB 2089, HB 2094, HB 2131, HB 2172, HB 2200, HB 2227, HB 2300, HB 2328, HB 2341, HB 2518, HB 2554, HB 2558, HB 2561, HB 2654, HB 2786,

HB 2887, HB 2930, HB 2975, HB 3075, HB 3128, HB 3139, HB 3208, HB 3213, HB 3214, HB 3221, HB 3235, HB 3517, HB 3556, HB 3561, HB 3569, HB 3595, HB 3605, HB 3607, HCR 15, HCR 34, HCR 73, HCR 89, HCR 251, HCR 261.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 28, 2003

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 103, Relating to the carrying of weapons by peace officers and by special investigators.

(Amended)

SB 245, Relating to the provision of respiratory therapy services under the medical assistance program.

(Amended)

SB 315, Relating to the annexation by certain junior college districts of territory in a district's service area.

(Amended)

SB 463, Relating to structures that constitute insurable property under the Texas Windstorm Insurance Association.

(Amended)

SB 467, Relating to the operation of the Texas Health Insurance Risk Pool.

(Amended)

SB 480, Relating to excepting certain land from the additional tax imposed on the change of use of land appraised for ad valorem tax purposes as open-space land.

(Amended)

SB 688, Relating to the boards of trustees of certain school districts.

(Amended)

SB 895, Relating to the conducting of a driver education course by certain family members of the student.

(Amended)

SB 923, Relating to criminal history checks of certain employees and applicants for employment in nursing homes and assisted living facilities and to the period within which a nursing home or assisted living facility must request certain criminal history checks.

(Amended)

SB 1000, Relating to a statistical or demographic analysis conducted by the Texas Legislative Council for a state agency and to information collected by the council in the course of performing the analysis.

(Amended)

SB 1007, Relating to student eligibility for a TEXAS grant.

(Amended)

SB 1053, Relating to certain water pollution and conservation programs administered by the Texas Water Development Board.

(Amended)

SB 1073, Relating to convictions barring employment in certain facilities serving the elderly or persons with disabilities.

(Amended)

SB 1154, Relating to state publications maintained by the Texas State Library and Archives Commission.

(Amended)

SB 1161, Relating to authorizing counties and municipalities to provide certain services through the Internet.

(Amended)

SB 1192, Relating to the operation of the Texas Property and Casualty Insurance Guaranty Association.

(Amended)

SB 1262, Relating to the use of certain incentives by municipalities for certain economic development.

(Amended)

SB 1276, Relating to the Lavaca-Navidad River Authority, formerly known as the Jackson County Flood Control District.

(Amended)

SB 1382, Relating to the continuation of certain professional and occupational licensing boards as self-directed and semi-independent agencies and to certain required reports for such agencies.

(Amended)

SB 1387, Relating to the regulation of racing.

(Amended)

SB 1463, Relating to the conversion of a nontoll state highway to a toll facility.

(Amended)

SB 1470, Relating to student eligibility to participate in a high school equivalency program and to authorization of a school district or open-enrollment charter school to operate a program.

(Amended)

SB 1494, Relating to the powers of Bexar Metropolitan Water District.

(Amended)

SB 1570, Relating to certain public water supply wells in the Trinity Glen Rose Groundwater Conservation District.

(Amended)

SB 1582, Relating to authorizing political subdivisions and property owners' associations to trap and transport white-tailed deer.

(Amended)

SB 1659, Relating to certain ad valorem tax exemptions, payments, and refunds.

(Amended)

SB 1725, Relating to the North Harris County Regional Water Authority.

(Amended)

SB 1782, Relating to the precedence of highway access rules and ordinances of certain counties and municipalities over highway access management orders of the Texas Transportation Commission.

(Amended)

SB 1820, Relating to criteria for rating the performance of school districts.

(Amended)

SB 1923, Relating to the application of the professional prosecutors law to the district attorney for the 258th Judicial District.

(Amended)

SB 1932, Relating to the performance of the duties of a district attorney by the prison prosecution unit in Trinity County.

(Amended)

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

HOUSE BILL 2032 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2032** at this time on its second reading:

HB 2032, Relating to the confidentiality of e-mail addresses under the public information law.

The bill was read second time.

Senator Whitmire offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2032** on page 1, line 39 by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS accordingly:

SECTION 2. Section 552.352, Government Code, is amended by adding Subsections (a-1) and (a-2) to read as follows:

(a-1) An officer or employee of a governmental body who obtains access to confidential information under Section 552.008 commits an offense if the officer or employee knowingly:

(1) uses the confidential information for a purpose other than the purpose for which the information was received or for a purpose unrelated to the law that permitted the officer or employee to obtain access to the information, including solicitation of political contributions or solicitation of clients;

(2) permits inspection of the confidential information by a person who is not authorized to inspect the information; or

(3) discloses the confidential information to a person who is not authorized to receive the information.

(a-2) For purposes of Subsection (a-1), a member of an advisory committee to a governmental body who obtains access to confidential information in that capacity is considered to be an officer or employee of the governmental body.

The floor amendment was read and was adopted without objection.

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

HB 2032 as amended was passed to third reading without objection.

HOUSE BILL 2032 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2032** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

COMMITTEE SUBSTITUTE

HOUSE BILL 3546 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3546** at this time on its second reading:

CSHB 3546, Relating to the exemption from ad valorem taxation of certain property used to provide low-income or moderate-income housing.

The bill was read second time and was passed to third reading without objection.

**COMMITTEE SUBSTITUTE
HOUSE BILL 3546 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3546** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

LEGISLATIVE INTENT

On motion of Senator Gallegos, the following questions and answers to establish legislative intent regarding **CSHB 3546** were ordered reduced to writing and printed in the *Senate Journal*:

Senator Gallegos: Thank you Mr. Chairman. I just have a couple of questions, Senator Lucio. I'm going to support your bill, I just need to ask you a couple of questions for legislative intent. Is it your intent that the Community Housing Development Organizations, or CHDOs, who purchase property before January 1, 2004, the effective date of this legislation, qualify for the current CHDO tax exemption, so long as the property is being offered to rent within three years as provided by current law?

Senator Lucio: Well let me tell you, I think what you're asking is an inaccurate statement. It's not in current law, and that's what throwing me off when you're asking current law. That's what's throwing me off when you're saying current law; it's not in current law, as provided in current law. But I think you did have an additional question.

Senator Gallegos: There's an additional. Is it your intent that an appraisal district who is reviewing an application for a CHDO exemption look to the date of the purchase of the property in determining whether the property is entitled to a CHDO exemption?

Senator Lucio: Yes, sir, it is. Yes, sir.

Senator Gallegos: All right, then is it further your intent that so long as the purchase date is prior to January 1, 2004, the determination of whether the property qualifies for a CHDO exemption will be based on current law?

Senator Lucio: OK, yes, sir. The answer is yes to that. It is my intent that the properties that receive an exemption prior to January 1, 2004, should receive an exemption under the current law.

HOUSE BILL 820 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 820** at this time on its second reading:

HB 820, Relating to the eligibility of certain appellate judges to retire with full benefits.

The bill was read second time.

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 820** as follows:

(3) is at least 55 years old and has at least 20 years of service credited in the retirement system, regardless of whether the member currently holds a judicial office;
or

(4) has served at least two full terms on an appellate court and the sum of the member's age and amount of service credited in the retirement system equals or exceeds the number 70, regardless of whether the member currently holds a judicial office.

The floor amendment was read and was adopted without objection.

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

HB 820 as amended was passed to third reading without objection.

HOUSE BILL 820 ON THIRD READING

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 820** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

HOUSE BILL 1945 ON SECOND READING

On motion of Senator Averitt and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1945** at this time on its second reading:

HB 1945, Relating to certain fees collected by clerks of county courts and statutory county courts.

The bill was read second time and was passed to third reading without objection.

HOUSE BILL 1945 ON THIRD READING

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1945** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

(Senator Brimer in Chair)
COMMITTEE SUBSTITUTE
HOUSE BILL 3588 ON THIRD READING

Senator Ogden moved to suspend the regular order of business to take up for consideration **CSHB 3588** at this time on its third reading and final passage:

CSHB 3588, Relating to the construction, acquisition, financing, maintenance, management, operation, ownership, and control of transportation facilities and the progress, improvement, policing, and safety of transportation in the state; imposing criminal penalties.

The motion prevailed by a viva voce vote.

The bill was read third time.

Senator Lindsay offered the following amendment to the bill:

Floor Amendment No. 9 on Third Reading

Amend **CSHB 3588** as follows:

(1) In SECTION 1.01 of the bill, in proposed Section 227.022, Transportation Code (page 3, line 26) strike (2) in its entirety and insert the following:

(2) the entity may not file a declaration of taking and obtain early possession of real property, unless the acquisition of property is in conjunction with a turnpike or a toll road project in a county with a population of 3.3 million or more.

(2) In SECTION 1.01 of the bill, in proposed Section 227.045, Transportation Code (page 6, line 3) strike (2) in its entirety and insert the following:

(2) may not file a declaration of taking and obtain early possession of real property, unless the acquisition of property is in conjunction with a turnpike or a toll road project in a county with a population of 3.3 million or more.

(3) In SECTION 2.01 of the bill, in proposed Section 370.163, Transportation Code (page 17, line 24) strike the last sentence in its entirety and insert the following after project:

An authority may not file a declaration of taking and obtain early possession of real property, unless the acquisition of property is in conjunction with a turnpike or a toll road project in a county with a population of 3.3 million or more.

The floor amendment was read.

On motion of Senator Ogden, Floor Amendment No. 9 was tabled by a viva voce vote.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 10 on Third Reading

Amend **CSHB 3588**, Article 7.03, page 102, line 17, by striking the entire Section 366.035.

The floor amendment was adopted by a viva voce vote.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 11 on Third Reading

Amend **CSHB 3588** as follows:

Amend Section 370.306 by inserting ", including corporate guarantee," after "security"

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

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 12 on Third Reading

Amend **CSHB 3588** by inserting the following new SECTIONS to the bill and renumbering the existing SECTIONS accordingly:

SECTION _____. The heading to Chapter 55, Transportation Code, is amended to read as follows:

CHAPTER 55. FUNDING OF PORT SECURITY, PROJECTS,
AND STUDIES [~~TEXAS PORT TRANSPORTATION
AND ECONOMIC DEVELOPMENT FUNDING~~]

SECTION _____. Section 55.001, Transportation Code, is amended to read as follows:

Sec. 55.001. DEFINITIONS. In this chapter:

- (1) "Commission" means the Texas Transportation Commission.
- (2) "Committee" means the [~~Texas~~] Port Authority [~~Transportation and Economic Development~~] Advisory Committee.
- (3) [~~(2)~~] "Department" means the Texas Department of Transportation [~~Economic Development~~].
- (4) [~~(3)~~] "Fund" means the port access account fund.
- (5) [~~(4)~~] "Port security, transportation, or facility project" means a project that is necessary or convenient for the proper operation of a port and that will improve the security, movement, and intermodal transportation of cargo or passengers in commerce and trade.

SECTION _____. Section 55.002, Transportation Code, is amended to read as follows:

Sec. 55.002. [~~TEXAS~~] PORT [~~TRANSPORTATION AND ECONOMIC~~] DEVELOPMENT FUNDING. (a) From [~~Using only~~] money in the fund, the department shall fund:

- (1) port security, transportation, or facility projects; and [~~or~~]
 - (2) port studies.
- (b) The department may not fund a port security, transportation, or facility project unless an amount at least equal to the amount provided by the department is invested in the [~~a~~] project by a port authority or navigation district.
- (c) Port security, transportation, or facility projects eligible for funding under this chapter include:
- (1) construction or improvement of transportation facilities within the jurisdiction of a port;
 - (2) the dredging or deepening of channels, turning basins, or harbors;

(3) the construction or improvement of wharves, docks, structures, jetties, piers, storage facilities, cruise terminals, or any facilities necessary or useful in connection with port transportation or economic development;

(4) the construction or improvement of facilities necessary or useful in providing port security;

(5) the acquisition of container cranes or other mechanized equipment used in the movement of cargo or passengers in international commerce;

(6) ~~(5)~~ the acquisition of land to be used for port purposes;

(7) ~~(6)~~ the acquisition, improvement, enlargement, or extension of existing port facilities; and

(8) ~~(7)~~ environmental protection projects that:

(A) are required as a condition of a state, federal, or local environmental permit or other form of ~~state~~ approval;

(B) are necessary for the acquisition of spoil disposal sites and improvements to existing and future spoil sites; or

(C) ~~that~~ result from the undertaking of eligible projects.

(d) The department, in consultation with the committee, shall review the list of projects recommended by the committee to evaluate the economic benefit of each project. The commission ~~department~~, after receiving recommendations from ~~in consultation with~~ the committee and from the department, shall approve projects or studies for funding based on its review.

SECTION _____. Section 55.004, Transportation Code, is amended to read as follows:

Sec. 55.004. AUDIT. The department may subject a project that receives money under this chapter to a final audit. ~~[The department may adopt rules and perform other acts necessary or convenient to ensure that the final audits are conducted and that any deficiency or questioned costs noted by the audit are resolved.]~~

SECTION _____. Section 55.006, Transportation Code, is amended to read as follows:

Sec. 55.006. ~~[TEXAS]~~ PORT AUTHORITY ~~[TRANSPORTATION AND ECONOMIC DEVELOPMENT]~~ ADVISORY COMMITTEE. (a) The committee ~~[Texas Port Transportation and Economic Development Advisory Committee]~~ consists of seven members appointed by the commission. The members shall be appointed as follows:

(1) one member from the Port of Houston Authority ~~[a member of the governing body of each of the ports that are members of the Texas Ports Association or their designees]; [and]~~

(2) three members who represent ports on the upper Texas coast; and ~~[as a nonvoting member, the executive director or the designee of the department]~~

(3) three members who represent ports on the lower Texas coast.

(b) A committee member serves at the pleasure of the commission ~~[The committee shall develop bylaws under which it operates. The bylaws must specify the procedure by which the presiding officer of the committee is elected. A majority of voting members constitutes a quorum sufficient to conduct meetings and business of~~

~~the committee. A vote of the majority of the voting members present is sufficient for any action of the committee, unless the bylaws of the committee require a greater vote for a particular action].~~

(c) ~~[The committee shall meet at the call of its presiding officer, at the request of a majority of its membership, or at times prescribed in its bylaws.]~~ The committee must meet at least semiannually.

(d) A member is not entitled to compensation for service on the committee but is entitled to reimbursement for reasonable expenses the member incurs in performing committee duties.

(e) Section ~~[Sections]~~ 2110.002 ~~[and 2110.008]~~, Government Code, does ~~[do]~~ not apply to the committee.

SECTION _____. Section 55.007, Transportation Code, is amended to read as follows:

Sec. 55.007. DUTIES OF COMMITTEE. The committee shall:

- (1) prepare a port mission plan;
- (2) review each project eligible to be funded under this chapter and make recommendations for approval or disapproval to the department;
- (3) maintain trade data information that will assist ports in this state and international trade;

(4) annually prepare a list of projects that have been recommended by the committee, including:

(A) the recommended funding level for each project; and

(B) if staged implementation of the project is appropriate, the funding requirements for each stage; and

(5) advise the commission and the department on matters relating to port authorities and, ~~[adopt rules for evaluating projects that may be funded under this chapter, providing criteria for the evaluation of the economic benefit of the project, measured by the potential for the proposed project to increase:~~

~~[(A) cargo flow;~~

~~[(B) cruise passenger movement;~~

~~[(C) international commerce;~~

~~[(D) port revenues; and~~

~~[(E) the number of jobs for the port's local community].~~

SECTION _____. Section 55.008, Transportation Code, is amended to read as follows:

Sec. 55.008. CAPITAL PROGRAM. (a) The committee shall prepare a two-year port capital program defining the goals and objectives of the committee concerning the development of port facilities and an intermodal transportation system. The port capital program must include projects or studies submitted to the committee by any ~~[each]~~ port ~~[that is a member of the committee]~~ and recommendations for:

(1) the construction of transportation facilities connecting any port to another transportation mode; and

(2) the efficient, cost-effective development of transportation facilities or port facilities for the purpose of:

(A) enhancing international trade;

(B) enhancing security;

- (C) promoting cargo flow;
- (D) [~~(C)~~] increasing cruise passenger movements;
- (E) [~~(D)~~] increasing port revenues; and
- (F) [~~(E)~~] providing economic benefits to the state.

(b) The committee shall update the port capital program annually and shall submit the capital program not later than February 1 of each year to:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the speaker of the house of representatives; and
- (4) the commission [~~department~~].

SECTION _____. Chapter 55, Transportation Code, is amended by adding Section 55.009 to read as follows:

Sec. 55.009. RULES. The commission shall adopt rules to implement this chapter.

SECTION _____. Chapter 53, Transportation Code, is repealed.

The floor amendment was adopted by a viva voce vote.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 13 on Third Reading

Amend **CSHB 3588** by adding the following ARTICLE to the bill and renumbering existing ARTICLES of the bill accordingly:

ARTICLE _____. DRIVER'S LICENSES

SECTION _____.01. (a) Section 521.142(a), Transportation Code, is amended to read as follows:

(a) An application for an original license must state the applicant's full name and place and date of birth. This information must be verified by presentation of proof of identity satisfactory to the department. The department shall accept as proof of the applicant's identity an identity document that is issued by the government of another country, if that document bears the applicant's photograph, full name, and date of birth and the government of the other country has established reasonable mechanisms by which the department can verify the identity document. For purposes of this section, an identity document includes a passport, a consular identity document, and a national identity document.

(b) Subsection (a) of this section takes effect September 1, 2003.

The floor amendment was read.

On motion of Senator Lucio, Floor Amendment No. 13 was withdrawn.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 14 on Third Reading

Amend **CSHB 3588** by inserting the following appropriately numbered section to read as follows:

SECTION _____. Subsection (b) of Section 542.202, Transportation Code, is amended by adding a new Subdivision (3) to read as follows:

(3) "Regulating" means criminal, civil, and administrative enforcement against a person, including the owner or operator of a motor vehicle, in accordance with a state law or a municipal ordinance.

The floor amendment was read.

On motion of Senator Ogden, Floor Amendment No. 14 was tabled by a viva voce vote.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 15 on Third Reading

Amend **CSHB 3588** by adding the appropriately numbered new sections:

SECTION _____. Section 544.007, Transportation Code, is amended by adding Subsection (i) to read as follows:

(i) An operator of a vehicle facing a traffic-control signal that does not display an indication in any of the signal heads shall stop as provided by Section 544.010 as if the intersection had a stop sign.

SECTION _____. Section 545.151(a), Transportation Code, is amended to read as follows:

(a) An operator approaching an intersection:

(1) shall stop, yield, and grant immediate use of the intersection:

(A) in obedience to an official traffic-control device, including a stop sign or yield right-of-way sign; or

(B) if a traffic-control signal is present but does not display an indication in any of the signal heads; and

(2) after stopping, may proceed when the intersection can be safely entered without interference or collision with traffic using a different street or roadway.

The floor amendment was read.

Senator Ogden moved to table Floor Amendment No. 15.

The motion to table failed by a viva voce vote.

Question recurring on the adoption of Floor Amendment No. 15, the amendment was adopted by a viva voce vote.

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 16 on Third Reading

Amend **CSHB 3588** by adding the following appropriately numbered sections in Article 12 and renumbering subsequent sections accordingly:

SECTION _____. Section 545.066(c), Transportation Code, is amended to read as follows:

(c) An offense under this section is a misdemeanor punishable by a fine of not less than \$200 or more than \$1,000, except that the offense is:

(1) a Class A misdemeanor if the person causes serious bodily injury to another; or

(2) a state jail felony if the person has been previously convicted under Subdivision (1).

SECTION _____. (a) The change in law made by Section 545.066(c), Transportation Code, as amended by this article, applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

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

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 17 on Third Reading

Amend **CSHB 3588** by adding a new Section ____ to read as follows:

SECTION _____. The Transportation Code is amended by adding a new Subchapter D to Chapter 551 to read as follows:

SUBCHAPTER D. NEIGHBORHOOD ELECTRIC VEHICLES.

Sec. 551.301. DEFINITION. In this subchapter, "neighborhood electric vehicle" means a vehicle subject to Federal Motor Vehicle Standard 500 (49 C.F.R. Section 571.500).

Sec. 551.302. OPERATION ON ROADWAY. (a) A neighborhood electric vehicle may be operated only on a street or highway for which the posted speed limit is 35 miles per hour or less. The vehicle may cross a road or street at an intersection where the road or street has posted speed limit of more than 35 miles per hour.

(b) A county or municipality may prohibit the operation of a neighborhood electric vehicle on any street or highway if the governing body of the county or municipality determines that the prohibition is necessary in the interest of safety.

(c) The department may prohibit the operation of a neighborhood electric vehicle on a highway if it determines that the prohibition is necessary in the interest of safety.

The floor amendment was read.

Senator Shapiro offered the following amendment to the amendment:

Floor Amendment No. 17A on Third Reading

Amend Floor Amendment No. 17 on Third Reading to **CSHB 3588** by adding the appropriately numbered new section:

Neighborhood Electric Vehicles and Motor Assisted Scooters

Section 551.301. DEFINITION. (a) In this subchapter, "neighborhood electric vehicle" means a vehicle subject to Federal Motor Safety Standard 500 (49 CFR 571.500).

(b) Motor Assisted Scooter means a self-propelled device with a least two wheels in contact with the ground, a braking system capable of stopping the unit under typical operating conditions, a gas or electric motor not exceeding 40 cubic centimeters, a deck designed for a person to stand or sit while operating the device and the ability to be propelled by human power alone.

Section 551.302. OPERATION ON ROADWAY. (a) neighborhood electric vehicle or a motor assisted scooter may be operated only on a street or highway for which the posted speed limit is 35 miles per hour or less. The vehicle may cross a road or street at an intersection where the road or street has a posted speed limit of more than 35 miles per hour.

(b) a person may operate a motor assisted scooter on a path set aside for the exclusive operation of bicycles or on a sidewalk. Except as otherwise provided by this section, provisions of this title applicable to the operation of bicycles apply to the operation of motor assisted scooters.

~~(b)~~ (c) A county or municipality may prohibit the operation of a neighborhood electric vehicle or motor assisted scooter on any street or highway if the governing body of the county or municipality determines that the prohibition is necessary in the interest of safety.

~~(c)~~ (d) The Department may prohibit the operation of a neighborhood electric vehicle or motor assisted scooter on a highway if it determines that the prohibition is necessary in the interest of safety.

(e) provisions of this title applicable to the term "motor vehicle" do not apply to motor assisted scooter as defined in SEC 551.301, subparagraph (b).

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

Question recurring on the adoption of Floor Amendment No. 17 as amended, the amendment as amended was adopted by a viva voce vote.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 18 on Third Reading

Amend **CSHB 3588** by adding the following appropriately numbered SECTIONS to the bill and renumbering the other SECTIONS of the bill accordingly:

SECTION _____. Section 521.121(a), Transportation Code, is amended to read as follows:

(a) The driver's license must include:

(1) a distinguishing number assigned by the department to the license holder;

(2) a color photograph of the entire face of the holder;

(3) the full name, date of birth, and residence address of the holder; ~~and~~

(4) a brief description of the holder; and

(5) a numerical code reflecting the ethnicity of the holder.

SECTION _____. Section 521.142(c), Transportation Code, is amended to read as follows:

(c) The application must state:

(1) the sex of the applicant;

(2) the residence address of the applicant;

(3) whether the applicant has been licensed to drive a motor vehicle before;

(4) if previously licensed, when and by what state or country;

(5) whether that license has been suspended or revoked or a license application denied;

- (6) the date and reason for the suspension, revocation, or denial;
- (7) whether the applicant is a citizen of the United States; ~~and~~
- (8) the county of residence of the applicant; and
- (9) the ethnicity of the applicant.

The floor amendment was read.

On motion of Senator Ogden, Floor Amendment No. 18 was tabled by the following vote: Yeas 23, Nays 6.

Yeas: Averitt, Barrientos, Bivins, Deuell, Ellis, Estes, Fraser, Gallegos, Jackson, Lindsay, Lucio, Madla, Nelson, Ogden, Ratliff, Shapiro, Shapleigh, Staples, Van de Putte, Wentworth, West, Williams, Zaffirini.

Nays: Armbrister, Brimer, Carona, Duncan, Harris, Whitmire.

Absent: Hinojosa, Janek.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 19 on Third Reading

Amend **CSHB 3588** by adding the following appropriately numbered SECTION:

SECTION _____. Subchapter E, Chapter 548, Transportation Code, is amended by adding Section 548.257 to read as follows:

Sec. 548.257. LOST, STOLEN, OR DESTROYED CERTIFICATE. (a) If an inspection certificate is lost, stolen, or destroyed during the period during which the certificate is valid, the vehicle must be reinspected and any applicable fee paid before a new certificate is issued, except that the vehicle is not subject to any emissions inspection. The replacement certificate is valid for the remaining period of validity of the original certificate.

(b) The department by rule shall specify the method for establishing that:

(1) the certificate has been lost, stolen, or destroyed; and

(2) the reinspection is within the period of validity of the lost, stolen, or destroyed certificate.

(c) As part of its rules under Subsection (b), the department shall adopt measures to ensure that the reinspection procedure provided by this section is not used fraudulently to avoid any required inspection.

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

Floor Amendment No. 20 on Third Reading was not offered.

(Senator Armbrister in Chair)

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 21 on Third Reading

Amend **CSHB 3588** in ARTICLE 12 of the bill by adding the following appropriately numbered Section and renumbering subsequent sections accordingly:

SECTION 12. _____. Article 26.13(a), Code of Criminal Procedure, is amended to read as follows:

(a) Prior to accepting a plea of guilty or a plea of nolo contendere, the court shall admonish the defendant of:

(1) the range of the punishment attached to the offense;

(2) the fact that the recommendation of the prosecuting attorney as to punishment is not binding on the court. Provided that the court shall inquire as to the existence of any plea bargaining agreements between the state and the defendant and, in the event that such an agreement exists, the court shall inform the defendant whether it will follow or reject such agreement in open court and before any finding on the plea. Should the court reject any such agreement, the defendant shall be permitted to withdraw his plea of guilty or nolo contendere;

(3) the fact that if the punishment assessed does not exceed the punishment recommended by the prosecutor and agreed to by the defendant and the defendant's [his] attorney, the trial court must give its permission to the defendant before the defendant [he] may prosecute an appeal on any matter in the case except for those matters raised by written motions filed prior to trial;

(4) the fact that if the defendant is not a citizen of the United States of America, a plea of guilty or nolo contendere for the offense charged may result in deportation, the exclusion from admission to this country, or the denial of naturalization under federal law; [and]

(5) the fact that the defendant will be required to meet the registration requirements of Chapter 62, if the defendant is convicted of or placed on deferred adjudication for an offense for which a person is subject to registration under that chapter; and

(6) the fact that the state imposes additional fees or financial obligations on the defendant in connection with the plea and the amounts of those fees and financial obligations.

The floor amendment was read.

On motion of Senator Ogden, Floor Amendment No. 21 was tabled by the following vote: Yeas 17, Nays 12.

Yeas: Armbrister, Averitt, Barrientos, Bivins, Brimer, Deuell, Duncan, Estes, Fraser, Harris, Jackson, Lucio, Nelson, Ogden, Ratliff, Shapiro, Staples.

Nays: Carona, Ellis, Gallegos, Lindsay, Madla, Shapleigh, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Absent: Hinojosa, Janek.

Senator Bivins offered the following amendment to the bill:

Floor Amendment No. 22 on Third Reading

Amend **CSHB 3588** by inserting new ARTICLES 13, 14, 15 and 16 to read as follows, and renumbering all subsequent ARTICLES as appropriate:

ARTICLE 13. FINANCIAL RESPONSIBILITY REQUIREMENTS

SECTION 1.01. Chapter 601, Transportation Code, is amended by adding Subchapters N and O to read as follows:

SUBCHAPTER N. DATABASE INTERFACE SYSTEM TO VERIFY
FINANCIAL RESPONSIBILITY

Sec. 601.450. FEASIBILITY STUDY. (a) The department and the Texas Department of Insurance shall jointly conduct a study on the feasibility, affordability, and practicability of using a database interface software system for verification of whether owners of motor vehicles have established financial responsibility as required by this chapter. The study must include consideration of whether the system:

(1) is likely to reduce the number of uninsured motorists in this state;

(2) is likely to operate reliably;

(3) is cost-effective;

(4) will sufficiently protect the privacy of the motor vehicle owners; and

(5) will sufficiently ensure the security and integrity of each database to which it is applied.

(b) Before July 1, 2004, the department and the Texas Department of Insurance shall complete the study and jointly issue an order stating a determination of whether the system should be implemented.

(c) If it is determined that the system should be implemented, the department shall implement the system before January 1, 2005, and Subchapter O and this section expire January 1, 2005. The department is not required to carry out the other sections of this subchapter before the determination is made.

(d) If it is determined that the system should not be implemented:

(1) the Texas Department of Transportation shall implement Subchapter O before July 1, 2005; and

(2) this subchapter expires on the date of issuance of the order stating the determination.

Sec. 601.451. IMPLEMENTATION OF SYSTEM; RULES. (a) The department shall establish a database interface software system for verification of whether owners of motor vehicles have established financial responsibility.

(b) The department shall adopt rules to administer this subchapter.

Sec. 601.452. AGENT. (a) The department, under a competitive bidding procedure, shall select an agent to develop, implement, operate, and maintain the system.

(b) The department and the Texas Department of Insurance shall jointly enter into a contract with the selected agent.

(c) A contract under this section may not have a term of more than 10 years.

Sec. 601.453. INFORMATION PROVIDED BY INSURANCE COMPANY; PRIVACY. (a) Each insurance company providing motor vehicle liability policies in this state shall allow the agent sufficient access to its databases to allow the agent to carry out this subchapter, subject to the agent's contract with the department and the Texas Department of Insurance and rules adopted under this subchapter.

(b) The agent may have access only to information determined by the department and the Texas Department of Insurance to be necessary to carry out this subchapter.

(c) Information obtained under this subchapter is confidential. The agent may use the information only for a purpose authorized under this subchapter and may not use the information for a commercial purpose.

(d) A person commits an offense if the person knowingly uses information obtained under this subchapter for any purpose not authorized under this subchapter. An offense under this subsection is a Class B misdemeanor.

SUBCHAPTER O. VERIFICATION OF COMPLIANCE WITH
AND ENFORCEMENT OF
FINANCIAL RESPONSIBILITY REQUIREMENTS

Sec. 601.501. DEFINITION. In this subchapter, "verification date" means the date on which the Texas Department of Transportation mails a written request to an owner of a motor vehicle requiring the owner to state whether the owner has established financial responsibility in accordance with Section 601.051(a).

Sec. 601.5015. LEASED VEHICLE. In applying the requirements of the chapter to a situation in which the vehicle is subject to a written lease which had an original term of one year or longer and the person who has legal title to the vehicle does not have actual physical possession of the vehicle at the time the requirement applies, the requirements and fees of this chapter otherwise applicable to an owner or to a person who holds legal title to a vehicle or who owns the lease. However in that situation the person who holds legal title to the vehicle shall promptly, upon receipt from the Department or its designated agent of a request for information about the motor vehicle and the owner's method of establishing financial responsibility, provide to the Department or its designated agent the name of the lessee and the last known address of the lessee according to the titleholder's records. The civil and criminal penalties of this chapter which otherwise are applicable to owners or to a person who registers the vehicle or to the vehicle shall not apply to an owner or the vehicle of an owner which complies with this section, but shall instead apply to the lessee, and the Department shall not terminate the registration of an owner's vehicle which is subject to a lease described in this section.

Sec. 601.502. VERIFICATION OF ESTABLISHMENT OF FINANCIAL RESPONSIBILITY THROUGH RANDOM SAMPLING. (a) The Texas Department of Transportation or an agent of that department shall randomly select samples of registrations of motor vehicles subject to this chapter, and may select samples of owners of motor vehicles subject to this chapter, to verify whether an owner who is selected or whose motor vehicle is selected has established financial responsibility in accordance with Section 601.051(a). The Department of Public Safety shall provide the Texas Department of Transportation access to any information that will allow the Texas Department of Transportation to comply with this subsection.

(b) A sample selected under this section may not be classified on the basis of the owner's race, color, religion, sex, national origin, age, marital status, physical or mental disability, economic status, or geographic location.

(c) In addition to the general random sampling of motor vehicle registrations, the Texas Department of Transportation may randomly select other persons who own a registered motor vehicle to verify that the person has established financial responsibility, including a person:

(1) who, during the four-year period preceding the date of selection, has been convicted of a violation of Section 601.191, 601.195, 601.196, as it existed before repeal, or 601.506, including a violation that occurred while the person was operating a motor vehicle owned by another person; or

(2) whose driver's license or motor vehicle registration has been suspended during the four-year period preceding the date of selection.

(d) The Texas Department of Transportation shall send to the owner of a randomly selected motor vehicle, or to a randomly selected motor vehicle owner, a request for information about the motor vehicle and the owner's method of establishing financial responsibility. The request must require the owner to state whether the owner has, as of the verification date, established financial responsibility in accordance with Section 601.051(a).

(e) The Texas Department of Transportation:

(1) shall adopt rules as necessary to implement this subchapter; and

(2) by rule shall:

(A) establish the frequency of sample selection; and

(B) prescribe:

(i) the methods employed for the random selection of samples and the procedures necessary for implementation of the verification process, including the method of sending the verification request, which may include certified mail, return receipt requested;

(ii) the form for verification of financial responsibility; and

(iii) the information to be requested in the prescribed form.

(f) The Texas Department of Transportation may require the information provided by an owner to include a statement by the owner that the owner had, as of the verification date, established financial responsibility:

(1) through liability insurance under Subchapter D, including:

(A) the name and address of the insurer;

(B) the number of the insurance policy; and

(C) the expiration date of the insurance coverage;

(2) by filing a surety bond with the Department of Public Safety under Section 601.121, including:

(A) the name and address of the company issuing the bond;

(B) the identification number of the bond; and

(C) the expiration date of the bond;

(3) by depositing cash or securities with the comptroller under Section 601.122, including a copy of the certificate issued by the comptroller showing compliance;

(4) by depositing cash or a cashier's check with the county judge of the county in which the motor vehicle is registered under Section 601.123, including a copy of the certificate issued by the county judge showing compliance; or

(5) through self-insurance under Section 601.124, including a copy of the certificate of self-insurance issued by the Department of Public Safety.

(g) Not later than the 30th day after the verification date, the owner to whom the notice is sent shall furnish the requested information to the Texas Department of Transportation in the form prescribed by that department, accompanied by the owner's signed affirmation that the information is true and correct.

(h) If the owner responds to the request for information by asserting that the owner had, as of the verification date, established financial responsibility in accordance with a method authorized by Section 601.051(a), the Texas Department of Transportation may conduct a verification investigation as provided by Section 601.503.

Sec. 601.503. VERIFICATION INVESTIGATION. (a) To verify a response received from an owner under Section 601.502, the Texas Department of Transportation or an agent of that department may furnish necessary information to the insurer, surety, or officer named in the response. Not later than the 30th day after the date of receipt of the information, the insurer, surety, or officer shall inform the Texas Department of Transportation whether, as of the verification date, financial responsibility had been established for the affected motor vehicle in accordance with Section 601.051(a). An insurer that does not comply with this subsection is subject to an administrative penalty under Chapter 84, Insurance Code.

(b) If the response received from an owner under Section 601.502 states that financial responsibility has been established through self-insurance, the Texas Department of Transportation shall examine the records of the Department of Public Safety to verify that a certificate of self-insurance has been issued in accordance with Section 601.124.

Sec. 601.504. CIVIL PENALTY; WARNING NOTICE. (a) If an owner responds under Section 601.502 that the owner has not established financial responsibility or the owner fails to respond in a timely manner, or if the Texas Department of Transportation otherwise determines that an owner has registered or maintained the registration of a motor vehicle without establishing financial responsibility in accordance with Section 601.051(a):

(1) the owner is liable to the state for a civil penalty of \$100; and

(2) the Texas Department of Transportation shall mail to the owner a warning stating that:

(A) the owner has 30 days after the date the warning is sent to provide the evidence of financial responsibility; and

(B) if the owner does not timely comply with Paragraph (A), the registration of the motor vehicle will be terminated.

(b) If an owner of a motor vehicle has not provided evidence of financial responsibility to the Texas Department of Transportation within the 30 days after the date the warning is sent, the Texas Department of Transportation shall terminate the registration for the motor vehicle.

(c) Each notice or warning sent under this section must include, in English and Spanish, a clear and reasonably complete statement of an owner's rights and responsibilities under this chapter.

(d) From the civil penalties collected under this chapter, the Texas Department of Transportation shall recover its costs in implementing and administering the verification program under this subchapter. The Texas Department of Transportation shall deposit any amounts collected that exceed the administrative costs of that department under this subchapter to the credit of the general revenue fund.

Sec. 601.505. REGISTRATION OF MOTOR VEHICLE FOR WHICH REGISTRATION TERMINATED. (a) Except as provided by Subsections (b), (c), and (d), a motor vehicle for which registration is terminated under Section 601.504(b) may not be registered unless the owner submits with the application for registration:

(1) the \$100 civil penalty provided by Section 601.504(a), if the civil penalty has not been previously paid; and

(2) the registration fee applicable to the vehicle and any other fee required by law for registration of the vehicle.

(b) The Texas Department of Transportation shall reinstate the terminated registration of a motor vehicle without payment of any fee under Subsection (a)(2) if before the end of the registration period during which the registration was terminated the owner of the motor vehicle presents evidence of financial responsibility that:

(1) complies with Section 601.051(a); and

(2) was in effect on the verification date and is in effect on the date of application for reinstatement.

(c) Notwithstanding the terms of this subchapter:

(1) no lien attaches to a vehicle as a result of a violation of this subchapter;

(2) a person is not liable for a fine or penalty levied under this section or Section 601.504 if the person did not own the vehicle at the time the fine or penalty was levied; and

(3) neither a tax assessor-collector nor the Texas Department of Transportation may refuse to register a vehicle on the ground that a prior owner of the vehicle violated this subchapter.

(d) The provisions of Subsection (c) are not available to:

(1) a person who received title to the vehicle as a gift from the prior owner;

or

(2) a person who received title to the vehicle from a family member, unless the Texas Department of Transportation is satisfied that the transfer is in good faith and not to defeat the purpose of this subchapter.

Sec. 601.506. DISPLAY OF FALSE PROOF OF FINANCIAL RESPONSIBILITY; OFFENSE. (a) A person commits an offense if the person provides evidence of financial responsibility to a peace officer, as defined by Article 2.12, Code of Criminal Procedure, court, or officer of the court knowing that financial responsibility has not been established as required under Section 601.051(a) or that the evidence of financial responsibility is illegally altered, counterfeit, or otherwise invalid.

(b) If a peace officer issues a citation to a motor vehicle operator for displaying invalid evidence of financial responsibility, the officer shall confiscate the invalid evidence of financial responsibility for presentation in court.

(c) An offense under this section is punishable by a fine of not less than \$250 or more than \$450.

Sec. 601.507. USE OF AGENTS. The Texas Department of Transportation may submit requests for proposals for contracts with private vendors to perform the random sampling and the verification investigations required under this subchapter as an agent of that department. The Texas Department of Transportation may enter into contracts as necessary to implement the use of agents.

Sec. 601.508. SEASONAL EXCEPTION FOR CERTAIN FARM VEHICLES.

(a) In this section, "road tractor," "truck-tractor," "farm tractor," "farm trailer," and "farm semitrailer" have the meanings assigned by Section 502.001.

(b) During a season when the vehicle is not in use, Section 601.051 does not apply to a road tractor, truck-tractor, farm tractor, farm trailer, or farm semitrailer used exclusively to transport seasonally harvested agricultural products or livestock from the place of production to the place of processing, market, or storage.

(c) The designated agent may send a notice under Section 601.444 to the owner of a vehicle to which this section applies only during a season when the vehicle is in use.

(d) The department by rule shall provide a method of determining the season when a vehicle to which this section applies is in use.

SECTION 1.02. Section 502.104, Transportation Code, is amended to read as follows:

Sec. 502.104. DISPOSITION OF CERTAIN SPECIAL FEES. Each Monday a county assessor-collector shall send to the department an amount equal to collections for the preceding week for:

- (1) each transfer fee collected under Section 502.175; and
- (2) each fee collected under Section 502.169(b), 502.1715, or 502.279.

SECTION 1.03. Subchapter D, Chapter 502, Transportation Code, is amended by adding Section 502.1715 to read as follows:

Sec. 502.1715. ADDITIONAL FEE FOR MOTOR VEHICLE FINANCIAL RESPONSIBILITY VERIFICATION PROGRAM. (a) In addition to other fees imposed for registration of a motor vehicle, at the time of application for registration or renewal of registration of a motor vehicle for which the owner is required to submit evidence of financial responsibility under Section 502.153, the applicant shall pay a fee of \$1.

(b) Fees collected under this section shall be deposited to the credit of the state highway fund. Subject to appropriation, the money may be used by the department, the Texas Department of Insurance, and the Texas Department of Transportation to carry out Subchapters N and O, Chapter 601.

(c) The department and the Texas Department of Insurance shall adopt rules and develop forms necessary to administer this section.

SECTION 1.04. Section 601.051, Transportation Code, is amended to read as follows:

Sec. 601.051. REQUIREMENT OF FINANCIAL RESPONSIBILITY. (a) A person may not operate a motor vehicle in this state unless financial responsibility is established for that vehicle through:

- (1) a motor vehicle liability insurance policy that complies with Subchapter D;
- (2) a surety bond filed under Section 601.121;
- (3) a deposit under Section 601.122;
- (4) a deposit under Section 601.123; or
- (5) self-insurance under Section 601.124.

(b) An owner of a motor vehicle may not permit another person to operate the motor vehicle in this state unless financial responsibility is established for that vehicle and evidenced through a method described by Subsection (a).

SECTION 1.05. Section 601.191, Transportation Code, is amended to read as follows:

Sec. 601.191. OPERATION OF MOTOR VEHICLE IN VIOLATION OF FINANCIAL RESPONSIBILITY REQUIREMENTS [~~MOTOR VEHICLE LIABILITY INSURANCE REQUIREMENT~~]; OFFENSE. (a) A person commits an offense if the person operates a motor vehicle or permits another person to operate a motor vehicle in violation of Section 601.051.

(b) Except as provided by Subsection [Subsections (c) and] (d), an offense under this section is a misdemeanor punishable by a fine of not less than \$200 [~~\$175~~] or more than \$400 [~~\$350~~].

(c) It is a defense to prosecution under this section that the person charged with an offense produces in court satisfactory evidence that, at the time of the alleged offense, the owner or operator had established financial responsibility in accordance with Section 601.051(a). [~~If a person has been previously convicted of an offense under this section, an offense under this section is a misdemeanor punishable by a fine of not less than \$350 or more than \$1,000.~~]

(d) If the court determines that a person who has not been previously convicted of an offense under this section is economically unable to pay the fine, the court may reduce the fine to less than \$200 [~~\$175~~].

SECTION 1.06. Section 601.195, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) It is a defense to prosecution under this section that the person charged with an offense produces in court satisfactory evidence that, at the time of the alleged offense, the owner or operator had established financial responsibility in accordance with Subchapter F or K, as applicable.

ARTICLE 14. UNINSURED AND UNDERINSURED MOTORIST COVERAGE

SECTION 2.01. Article 5.06-1, Insurance Code, is amended to read as follows:

Art. 5.06-1. UNINSURED OR UNDERINSURED MOTORIST COVERAGE.

(a) [(+) No automobile liability insurance, (c)including insurance issued through the Texas Automobile Insurance Plan Association [pursuant to an Assigned Risk Plan established under authority of Section 35 of the Texas Motor Vehicle Safety Responsibility Act], covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be delivered or issued for delivery in this state unless coverage is provided therein or supplemental thereto, [in at least the limits described in the Texas Motor Vehicle Safety Responsibility Act,] under provisions prescribed by the commissioner [Board], for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured or underinsured motor vehicles because of bodily injury, sickness, or disease, including death, or property damage resulting therefrom. The coverages required under this Article shall not be applicable where any insured named in the policy shall reject the coverage in writing; provided that unless the named insured thereafter requests such coverage in writing, such coverage need not be

provided in or supplemental to a renewal policy where the named insured has rejected the coverage in connection with a policy previously issued to the named insured ~~[him]~~ by the same insurer or by an affiliated insurer.

(b) ~~[(2)]~~ For the purpose of these coverages:

(1) "Exemplary damages" has the meaning assigned by Section 41.001, Civil Practice and Remedies Code.

(2) "Noneconomic damages" means damages other than compensatory damages for pecuniary loss. The term includes damages for physical pain and mental anguish, loss of consortium, disfigurement, physical impairment, or loss of companionship and society. The term does not include exemplary damages.

(3) "Uninsured ~~[(a) the term "uninsured]~~ motor vehicle" shall, subject to the terms and conditions of such coverage, be deemed to include an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency.

(4) "Underinsured ~~[(b) The term "underinsured]~~ motor vehicle" means an insured motor vehicle on which there is valid and collectible liability insurance coverage with limits of liability for the owner or operator which were originally lower than, or have been reduced by payment of claims arising from the same accident to, an amount less than the limit of liability stated in the underinsured coverage of the insured's policy.

(c) The commissioner ~~[Board]~~ may, in the policy forms adopted under Article 5.06 of this code, define "uninsured motor vehicle" to exclude certain motor vehicles whose operators are in fact uninsured.

(d) The portion of a policy form adopted under Article 5.06 of this code to provide coverage under this article shall include provisions that, regardless of the number of persons insured, policies or bonds applicable, vehicles involved, or claims made, the total aggregate limit of liability to any one person who sustains bodily injury or property damage as the result of any one occurrence shall not exceed the limit of liability for these coverages as stated in the policy and the total aggregate limit of liability to all claimants, if more than one, shall not exceed the total limit of liability per occurrence as stated in the policy; and shall provide for the exclusion of the recovery of damages for bodily injury or property damage or both resulting from the intentional acts of the insured. The portion of a policy form adopted under Article 5.06 of this code to provide coverage under this article shall require that in order for the insured to recover under the uninsured motorist coverages where the owner or operator of any motor vehicle which causes bodily injury or property damage to the insured is unknown, actual physical contact must have occurred between the motor vehicle owned or operated by such unknown person and the person or property of the insured.

(e) Except as provided by Subsection (f) of this article, the ~~[(3) The]~~ limits of liability for bodily injury, sickness, or disease, including death, shall be offered to the insured in amounts not less than those prescribed in Chapter 601, Transportation Code, [the Texas Motor Vehicle Safety Responsibility Act] and such higher available limits as may be desired by the insured, but not greater than the limits of liability specified in the bodily injury liability provisions of the insured's policy.

(f) The named insured may elect to waive coverage under this article for recovery of noneconomic and exemplary damages resulting from bodily injury, sickness, or disease, including death. If an insured elects to waive coverage under this subsection, Subsection (e) of this article does not apply to the limits of liability that are applicable to the coverage provided under the policy issued to the insured for damages resulting from bodily injury, sickness, or disease, including death. The commissioner by rule may adopt minimum limits of liability applicable to those damages. Waiver of coverage under this subsection does not affect the insured's right to bring an action for noneconomic and exemplary damages against a responsible party. A written rejection of coverage for noneconomic and exemplary damages is not effective unless the insurer provides the insured with a written notice, acknowledged in writing by the insured at the time of the rejection, disclosing the amount of potential coverage that is available, the types of damages that would be covered, and the amount of premium saved because the coverage is rejected.

(g) [(4)(a)] Coverage for property damage shall be offered to the insured in amounts not less than those prescribed in Chapter 601, Transportation Code, [the Texas Motor Vehicle Safety Responsibility Act] and such higher available limits as may be desired by the insured, but not greater than limits of liability specified in the property damage liability provisions of the insured's policy, subject to a deductible amount of \$250.

(h) [(b)] If the insured has collision coverage and uninsured or underinsured property damage liability coverage, the insured may recover under the policy coverage chosen by the insured. In the event neither coverage is sufficient alone to cover all damage resulting from a single occurrence, the insured may recover under both coverages. When recovering under both coverages, the insured shall designate one coverage as the primary coverage and pay the deductible applicable to that coverage. The primary coverage must be exhausted before any recovery is made under the secondary coverage. If both coverages are utilized in the payment of damages from a single occurrence, the insured shall not be required to pay the deductible applicable to the secondary coverage when the amount of the deductible otherwise applicable to the secondary coverage is the same as or less than the amount of the deductible applicable to the primary coverage. If both coverages are utilized in the payment of damages from a single occurrence and the amount of the deductible otherwise applicable to the secondary coverage is greater than the amount of the deductible applicable to the primary coverage, the insured shall be required to pay in respect of the secondary coverage only the difference between the amount of the two deductibles. In no event shall the insured recover under both coverages more than the actual damages suffered.

(i) [(5)] The underinsured motorist coverage shall provide for payment to the insured of all sums which the insured [he] shall be legally entitled to recover as damages from owners or operators of underinsured motor vehicles because of bodily injury or property damage in an amount up to the limit specified in the policy, reduced by the amount recovered or recoverable from the insurer of the underinsured motor vehicle. If the named insured has waived coverage under Subsection (f) of this article for recovery of noneconomic and exemplary damages, the amount paid to the insured may not include any amount attributable to noneconomic and exemplary damages.

(j) [~~(6)~~] In the event of payment to any person under any coverage required by this article [~~Section~~] and subject to the terms and conditions of such coverage, the insurer making such payment shall, to the extent thereof, be entitled to the proceeds of any settlement or judgment resulting from the exercise of any rights of recovery of such person against any person or organization legally responsible for the bodily injury, sickness or disease, or death for which such payment is made, including the proceeds recoverable from the assets of the insolvent insurer; provided, however, whenever an insurer shall make payment under a policy of insurance issued pursuant to this article [~~Act~~], which payment is occasioned by the insolvency of an insurer, the insured of said insolvent insurer shall be given credit in any judgment obtained against the insured [~~him~~], with respect to the insured's [~~his~~] legal liability for such damages, to the extent of such payment, but, subject to Section 12 of Article 21.28-C of this code, such paying insurer shall have the right to proceed directly against the insolvent insurer or its receiver, and in pursuance of such right such paying insurer shall possess any rights which the insured of the insolvent company might otherwise have had if the insured of the insolvent insurer had made the payment.

(k) [~~(7)~~] If a dispute exists as to whether a motor vehicle is uninsured, the burden of proof as to that issue shall be upon the insurer.

(l) [~~(8)~~] Notwithstanding Section 15.032, Civil Practice and Remedies Code, an action against an insurer in relation to the coverage provided under this article, including an action to enforce that coverage, may be brought only:

(1) [~~(a)~~] in the county in which the policyholder or beneficiary instituting the suit resided at the time of the accident; or

(2) [~~(b)~~] in the county in which the accident involving the uninsured or underinsured motor vehicle occurred.

ARTICLE 15. PROOF OF INSURANCE CARDS

SECTION 3.01. Subchapter A, Chapter 5, Insurance Code, is amended by adding Article 5.06-7 to read as follows:

Art. 5.06-7. FORM AND APPEARANCE OF PROOF OF MOTOR VEHICLE LIABILITY INSURANCE. (a) The commissioner shall prescribe by rule a standard appearance and form for a card issued by an insurer as proof of motor vehicle liability insurance prescribed by Section 601.081, Transportation Code.

(b) In prescribing the appearance of a proof of motor vehicle liability insurance card under Subsection (a) of this article, the commissioner shall require an appearance that is:

(1) difficult to alter, duplicate, or counterfeit; and

(2) not cost-prohibitive for consumers.

ARTICLE 16. EFFECTIVE DATE

SECTION 4.01. This Act takes effect September 1, 2003.

The floor amendment was read.

Senator Brimer offered the following amendment to the amendment:

Floor Amendment No. 23 on Third Reading

Amend Floor Amendment No. 22 on Third Reading to **CSHB 3588** as follows:

In Sec. 601.453, on page 2, line 16, between "state" and "shall", insert ", except policies insuring one or more motor vehicles rated or insured as business or commercial vehicles, insuring one or more motor vehicles licensed by the state as commercial vehicles or covering one or more motor vehicles issued to a named insured who is not a natural person,"

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

Question recurring on the adoption of Floor Amendment No. 22 as amended, the amendment as amended was adopted by the following vote: Yeas 21, Nays 8.

Yeas: Armbrister, Averitt, Bivins, Brimer, Carona, Deuell, Duncan, Ellis, Estes, Fraser, Harris, Jackson, Lindsay, Madla, Nelson, Ogden, Ratliff, Shapiro, Staples, Wentworth, Williams.

Nays: Barrientos, Gallegos, Hinojosa, Lucio, Shapleigh, Van de Putte, Whitmire, Zaffirini.

Absent: Janek, West.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 24 on Third Reading

Amend **CSHB 3588** as follows:

On page 1, line 39 by inserting a new section (F):

(F) "Facility" does not mean a border inspection facility that serves a bridge that had more than 900,000 commercial border crossings during the state fiscal year ending August 31, 2002.

On page 10, line 31, by inserting a new section (H):

(H) "Transportation project" does not mean a border inspection facility that serves a bridge that had more than 900,000 commercial border crossings during the state fiscal year ending August 31, 2002.

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

Floor Amendment No. 25 on Third Reading was not offered.

Floor Amendment No. 26 on Third Reading was not offered.

Floor Amendment No. 27 on Third Reading was not offered.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 28 on Third Reading

Amend **CSHB 3588**, by adding the following article to the bill, appropriately numbered, and renumbering existing articles accordingly:

ARTICLE ____ . NONREPAIRABLE AND SALVAGE MOTOR
VEHICLES; SALVAGE VEHICLE DEALERS

SECTION ____ .01. Section 501.0234(b), Transportation Code, is amended to read as follows:

(b) This section does not apply to a motor vehicle:

(1) that has been declared a total loss by an insurance company in the settlement or adjustment of a claim;

(2) for which the certificate of title has been surrendered in exchange for:

(A) a salvage vehicle [~~certificate of~~] title issued under this chapter;

(B) a nonrepairable [~~motor~~] vehicle [~~certificate of~~] title issued under this chapter;

(C) a certificate of authority issued under Subchapter D, Chapter 683;
or

(D) an ownership document issued by another state that is comparable to a document described by Paragraphs (A)-(C); or

(3) with a gross weight in excess of 11,000 pounds.

SECTION ____ .02. Subchapter E, Chapter 501, Transportation Code, is amended to read as follows:

SUBCHAPTER E. NONREPAIRABLE AND SALVAGE
MOTOR VEHICLES

Sec. 501.091 [~~501.0911~~]. DEFINITIONS. [~~(a)~~] In this subchapter:

(1) "Actual cash value" means the market value of a motor vehicle as determined:

[(A) from publications commonly used by the automotive and insurance industries to establish the values of motor vehicles; or

[(B) if the entity determining the value is an insurance company, by any other procedure recognized by the insurance industry, including market surveys, that is applied by the company in a uniform manner.

(2) [~~"Automobile recycler" means a person in the business of dealing in salvage motor vehicles for the purpose of dismantling the vehicles to sell used parts or a person otherwise engaged in the business of acquiring, selling, or dealing in salvage parts for reuse or resale as parts. The term includes a dealer in used motor vehicle parts.~~

[(3)] "Casual sale" means the sale by a salvage vehicle dealer or an insurance company [~~at auction~~] of not more than five [~~one~~] nonrepairable motor vehicles [~~vehicle~~] or [~~late model~~] salvage motor vehicles [~~vehicle~~] to the same person during a calendar year. The term does not include:

(A) a sale at auction to a salvage vehicle dealer; or

(B) the sale of an export-only motor vehicle to a person who is not a resident of the United States.

(3) "Damage" means sudden damage to a motor vehicle caused by the motor vehicle being wrecked, burned, flooded, or stripped of major component parts. The term does not include gradual damage from any cause, sudden damage caused by hail, or any damage caused only to the exterior paint of the motor vehicle.

(4) "Export-only motor vehicle" means a motor vehicle described by Section 501.099.

(5) ~~(4)~~ "Insurance company" means:

(A) a person authorized to write automobile insurance in this state; or

(B) an out-of-state insurance company that pays a loss claim for a motor vehicle in this state.

~~(5) "Late model motor vehicle" means a motor vehicle with the same model year as the current calendar year or one of the five calendar years preceding that calendar year.]~~

~~(6) ["Late model salvage motor vehicle" or "salvage motor vehicle" means a late model motor vehicle, other than a late model vehicle that is a nonrepairable motor vehicle, that is damaged to the extent that the total estimated cost of repairs, other than repairs related to hail damage but including parts and labor, is equal to or greater than an amount equal to 75 percent of the actual cash value of the vehicle in its predamaged condition.~~

~~(7) "Major component part" means one of the following parts of a motor vehicle:~~

(A) the engine;

(B) the transmission;

(C) the frame;

(D) a the right or left front fender;

(E) the hood;

(F) a door allowing entrance to or egress from the passenger compartment of the motor vehicle;

(G) a the front or rear bumper;

(H) a the right or left quarter panel;

(I) a the deck lid, tailgate, or hatchback;

(J) the cargo box of a one-ton or smaller truck, including a pickup truck;

(K) the cab of a truck; ~~or~~

(L) the body of a passenger motor vehicle; or

(M) the roof or floor pan of a passenger motor vehicle, if separate from the body of the motor vehicle.

(7) "Metal recycler" means a person who:

(A) is predominately engaged in the business of obtaining ferrous or nonferrous metal that has served its original economic purpose to convert the metal, or sell the metal for conversion, into raw material products consisting of prepared grades and having an existing or potential economic value;

(B) has a facility to convert ferrous or nonferrous metal into raw material products consisting of prepared grades and having an existing or potential economic value, by method other than the exclusive use of hand tools, including the processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form or chemical content of the metal; and

(C) sells or purchases the ferrous or nonferrous metal solely for use as raw material in the production of new products.

(8) "Motor vehicle" has the meaning assigned by Section 501.002(14).

(9) ~~(8)~~ "Nonrepairable motor vehicle" means a ~~late model~~ motor vehicle that:

(A) is damaged, wrecked, or burned to the extent that the only residual value of the vehicle is as a source of parts or scrap metal; or

(B) comes into this state under a title or other ownership document that indicates that the vehicle is nonrepairable, junked, or for parts or dismantling only. [~~or missing a major component part to the extent that the total estimated cost of repairs to rebuild or reconstruct the vehicle, including parts and labor other than the costs of materials and labor for repainting the vehicle and excluding sales taxes on the total cost of the repairs, and excluding the cost of repairs to repair hail damage, is equal to or greater than an amount equal to 95 percent of the actual cash value of the motor vehicle in its predamaged condition.~~]

(10) [~~(9)~~] "Nonrepairable [~~motor~~] vehicle [~~certificate of~~] title" means a document issued by the department that evidences ownership of a nonrepairable motor vehicle.

[~~(10) "Older model motor vehicle" means a motor vehicle that was manufactured in a model year before the sixth preceding model year, including the current model year.~~]

(11) [~~"Other negotiable evidence of ownership" means a document other than a Texas certificate of title or a salvage certificate of title that relates to a motor vehicle that the department considers sufficient to support issuance of a Texas certificate of title for the vehicle.~~]

[~~(12) "Out-of-state buyer" means a person licensed in an automotive business by another state or jurisdiction if the department has listed the holders of such a license as permitted purchasers of salvage motor vehicles or nonrepairable motor vehicles based on substantially similar licensing requirements and on whether salvage vehicle dealers licensed in Texas are permitted to purchase salvage motor vehicles or nonrepairable motor vehicles in the other state or jurisdiction.~~]

(12) "Out-of-state ownership document" means a negotiable document issued by another state or jurisdiction that the department considers sufficient to prove ownership of a nonrepairable motor vehicle or salvage motor vehicle and to support the issuance of a comparable Texas certificate of title for the motor vehicle. The term does not include a title issued by the department, including a regular certificate of title, a nonrepairable vehicle title, a salvage vehicle title, a Texas Salvage Certificate, Certificate of Authority to Demolish a Motor Vehicle or another ownership document issued by the department.

(13) "Public highway" has the meaning assigned by Section 502.001.

(14) [~~(13)~~] "Rebuilder" means a person who acquires and repairs, rebuilds, or reconstructs for operation on a public highway [~~highways~~], three [~~five~~] or more [~~late model~~] salvage motor vehicles in a calendar year [~~any 12-month period~~].

(15) "Salvage motor vehicle":

(A) means a motor vehicle that

(i) is damaged to the extent that the cost of repair exceeds the actual cash value of the motor vehicle immediately before the damage; or

(ii) is damaged and that comes into this state under an out-of-state salvage motor vehicle certificate of title or similar out-of-state ownership document that states on its face "accident damage," "flood damage," "inoperable," "rebuildable," "salvageable," or similar notation; and

(B) does not include an out-of-state motor vehicle with a "rebuilt," "prior salvage", "salvaged," or similar notation, a nonrepairable motor vehicle, or a motor vehicle for which an insurance company has paid a claim for:

(i) the cost of repairing hail damage; or

(ii) theft, unless the motor vehicle was damaged during the theft and before recovery to the extent described by Paragraph (A)(i).

(16) [(14)] "Salvage ~~motor~~ vehicle ~~certificate of~~ title" means a [any] document issued by the department that evidences ownership of a salvage motor vehicle.

(17) [(15)] "Salvage vehicle dealer" means a person engaged in this state in the business of acquiring, selling, dismantling, repairing, rebuilding, reconstructing, or otherwise dealing in nonrepairable motor vehicles, salvage motor vehicles, or used parts. The term does not include a person who casually repairs, rebuilds, or reconstructs fewer than three salvage motor vehicles in the same calendar year. The term includes a person engaged in the business of:

(A) a salvage vehicle dealer, regardless of whether the person holds a license issued by the department to engage in that business;

(B) dealing in nonrepairable motor vehicles or salvage motor vehicles, regardless of whether the person deals in used parts; or

(C) dealing in used parts regardless of whether the person deals in nonrepairable motor vehicles or salvage motor vehicles [has the meaning assigned by Section 1.01, Article 6687 1a, Revised Statutes].

(18) "Self-insured motor vehicle" means a motor vehicle for which the evidence of ownership is a manufacturer's certificate of origin or for which the department or another state or jurisdiction has issued a regular certificate of title, is self-insured by the owner, and is owned by an individual, a business, or a governmental entity, without regard to the number of motor vehicles they own or operate. The term does not include a motor vehicle that is insured by an insurance company.

(19) "Used part" means a part that is salvaged, dismantled, or removed from a motor vehicle for resale as is or as repaired. The term includes a major component part but does not include a rebuildable or rebuilt core, including an engine, block, crankshaft, transmission, or other core part that is acquired, possessed, or transferred in the ordinary course of business.

[(b) For purposes of this subchapter:

[(1) the estimated cost of repair parts shall be determined by using a manual of repair costs or other instrument that is generally recognized and commonly used in the motor vehicle insurance industry to determine those costs or an estimate of the actual cost of the repair parts; and

[(2) the estimated labor costs shall be computed by using the hourly rate and time allocations that are reasonable and commonly assessed in the repair industry in the community in which the repairs are performed.]

Sec. 501.092 [501.0912]. INSURANCE COMPANY TO SURRENDER CERTIFICATES OF TITLE TO CERTAIN [LATE MODEL] SALVAGE MOTOR VEHICLES OR NONREPAIRABLE MOTOR VEHICLES. (a) An insurance company that is licensed to conduct business in this state and that acquires, through

payment of a claim, ownership or possession of a [late model] salvage motor vehicle or nonrepairable motor vehicle covered by a certificate of title issued by this state or a manufacturer's certificate of origin [through payment of a claim] shall surrender a properly assigned [certificate of] title or manufacturer's certificate of origin to the department, on a form prescribed by the department, except that not earlier than the 46th day after the date of payment of the claim the insurance company may surrender a certificate of title, on a form prescribed by the department, and receive a salvage certificate of title or a nonrepairable certificate of title without obtaining a properly assigned certificate of title if the insurance company:

- (1) has obtained the release of all liens on the motor vehicle;
- (2) is unable to locate one or more owners of the motor vehicle; and
- (3) has provided notice to the last known address in the department's records to each owner that has not been located:

(A) by registered or certified mail, return receipt requested; or

(B) if a notice sent under Paragraph (A) is returned unclaimed, by publication in a newspaper of general circulation in the area where the unclaimed mail notice was sent.

(b) For a salvage motor vehicle [described by Section 501.0911(6) but not by Section 501.0911(8)], the insurance company shall apply for a salvage [motor] vehicle [certificate of] title. For a nonrepairable motor vehicle [described by Section 501.0911(8)], the insurance company shall apply for a nonrepairable [motor] vehicle [certificate of] title.

(c) An insurance company may not sell a [late model salvage] motor vehicle to which this section applies unless the department has issued a salvage [motor] vehicle [certificate of] title or a nonrepairable [motor] vehicle [certificate of] title for the motor vehicle or a comparable ownership document has been issued by another state or jurisdiction for the motor vehicle.

(d) An insurance company may sell a [late model salvage] motor vehicle to which this section applies, or assign a salvage [motor] vehicle [certificate of] title or a nonrepairable [motor] vehicle [certificate of] title for the motor vehicle, only to a salvage vehicle dealer, an out-of-state buyer, a buyer in a casual sale at auction, or a metal recycler [person described by Subsection (g), Article 6687 2b, Revised Statutes]. If the motor vehicle is not a [late model] salvage motor vehicle or a nonrepairable motor vehicle, the insurance company is not required to surrender the regular certificate of title for the motor vehicle or to be issued a salvage [motor] vehicle [certificate of] title or a nonrepairable [motor] vehicle [certificate of] title for the motor vehicle.

(e) An insurance company or other person who acquires ownership of a motor vehicle other than a nonrepairable or salvage motor vehicle may voluntarily and on proper application obtain a salvage vehicle title or a nonrepairable vehicle title for the vehicle.

Sec. 501.093 [501.0915]. INSURANCE COMPANY [TO SUBMIT] REPORT ON CERTAIN VEHICLES [TO DEPARTMENT]. (a) If an insurance company pays [after payment of] a [total loss] claim on a [late model salvage motor vehicle or a] nonrepairable motor vehicle or salvage motor vehicle and the [an] insurance company

does not acquire ownership of the motor vehicle, the insurance company shall submit to the department, before the 31st day after the date of the payment of the claim, on the form prescribed by the department, a report stating that the insurance company:

(1) ~~[the insurance company]~~ has paid a ~~[total loss]~~ claim on the motor vehicle; and

(2) ~~[the insurance company]~~ has not acquired ownership of the motor vehicle.

(b) The owner of a ~~[late model salvage]~~ motor vehicle to which this section applies may not operate or permit operation of the motor vehicle on a public highway, or transfer ownership of the motor vehicle by sale or otherwise unless the department has issued a salvage [motor] vehicle [certificate of] title or a nonrepairable [motor] vehicle [certificate of] title for the motor vehicle or a comparable ownership document has been issued by another state or jurisdiction for the motor vehicle.

(c) Subsection (b) does not apply if:

(1) the department has issued a nonrepairable vehicle title or salvage vehicle title for the motor vehicle; or

(2) another state or jurisdiction has issued a comparable out-of-state ownership document for the motor vehicle.

Sec. 501.094. SELF-INSURED MOTOR VEHICLE. (a) This section applies only to a motor vehicle in this state that is:

(1) a self-insured motor vehicle;

(2) damaged to the extent it becomes a nonrepairable or salvage motor vehicle; and

(3) removed from normal operation by the owner.

(b) The owner of a motor vehicle to which this section applies shall submit to the department before the 31st day after the date of the damage, on the form prescribed by the department, a report stating that the motor vehicle was self-insured, damaged, and was removed from normal operation.

(c) When the owner submits a report under Subsection (b), the owner shall:

(1) surrender the regular certificate of title or manufacturer's certificate of origin for the motor vehicle; and

(2) apply for a nonrepairable vehicle title or salvage vehicle title under this subchapter.

Sec. 501.095 [501.0916]. SALE, TRANSFER, OR RELEASE OF NONREPAIRABLE MOTOR VEHICLE OR [LATE MODEL] SALVAGE [OR NONREPAIRABLE] MOTOR VEHICLE. (a) If the department has not issued a nonrepairable vehicle title or salvage vehicle title for the motor vehicle and an out-of-state ownership document for the motor vehicle has not been issued by another state or jurisdiction, a business or governmental entity described by Subdivisions (1)-(3) [A person] may [not] sell, transfer, or release a [late model salvage motor vehicle or a] nonrepairable motor vehicle or salvage motor vehicle only to a person who is [other than]:

(1) a licensed [person who holds a] salvage vehicle dealer, or metal recycler, [license issued] under Chapter 2302, Occupations Code;

(2) an insurance company that has paid a claim on [the former owner of] the nonrepairable or salvage motor vehicle;

(3) a governmental entity; or

(4) an out-of-state buyer. [5]

~~[(5) a buyer in a casual sale at auction; or~~

~~[(6) a person described by Section 2302.003, Occupations Code].~~

(b) A person, other than a salvage vehicle dealer or an insurance company licensed to do business in this state, who acquires ownership of a nonrepairable or salvage motor vehicle that has not been issued a nonrepairable vehicle title, salvage vehicle title, or a comparable ownership document issued by another state or jurisdiction shall, before selling the motor vehicle, surrender the properly assigned certificate of title for the motor vehicle to the department and apply to the department for:

(1) a nonrepairable vehicle title if the vehicle is a nonrepairable motor vehicle; or

(2) a salvage vehicle title if the vehicle is a salvage motor vehicle.

(c) ~~(b)~~ If the department has issued a nonrepairable vehicle title or salvage vehicle title for the motor vehicle or another state or jurisdiction has issued a comparable out-of-state ownership document for the motor vehicle, a person may sell, transfer, or release a nonrepairable motor vehicle or salvage motor vehicle to any person [A person who sells, transfers, or releases a motor vehicle under Subsection (a) shall deliver a properly assigned certificate of title for the vehicle to the person to whom the motor vehicle is sold, transferred, or released. If the assigned certificate of title is not a salvage motor vehicle certificate of title, a nonrepairable motor vehicle certificate of title, or a comparable ownership document issued by another state or jurisdiction, the purchaser shall, not later than the 10th day after the date the purchaser receives the certificate of title:

[(1) surrender the certificate of title to the department; and

[(2) apply for a salvage motor vehicle certificate of title or a nonrepairable motor vehicle certificate of title for the vehicle, as appropriate].

~~[(c) A salvage vehicle dealer that acquires ownership of a late model salvage motor vehicle or a nonrepairable motor vehicle for the purpose of dismantling, scrapping, or destroying the vehicle shall, before the 31st day after the date the dealer acquires the vehicle, submit to the department, on the form prescribed by the department, a report stating that the vehicle will be dismantled, scrapped, or destroyed, accompanied by a properly assigned regular certificate of title, salvage motor vehicle certificate of title, nonrepairable motor vehicle certificate of title, or comparable ownership document issued by another state or jurisdiction for the vehicle].~~

~~(d) On receipt of the report and the certificate of title, the department shall issue the salvage vehicle dealer a receipt for the certificate of title, salvage motor vehicle certificate of title, nonrepairable motor vehicle certificate of title, or comparable ownership document issued by another state or jurisdiction.~~

~~(e) A salvage vehicle dealer who submits a report under Subsection (c) shall report to the department after the action is taken that the vehicle was dismantled, scrapped, or destroyed].~~

Sec. 501.096. NONREPAIRABLE MOTOR VEHICLE OR SALVAGE MOTOR VEHICLE DISMANTLED, SCRAPPED, OR DESTROYED. (a) If a salvage vehicle dealer acquires ownership of a nonrepairable motor vehicle or salvage motor vehicle for the purpose of dismantling, scrapping, or destroying the motor vehicle, the dealer shall, before the 31st day after the date the dealer acquires the motor vehicle, submit to the department a report stating that the motor vehicle will be dismantled, scrapped, or destroyed. The dealer shall:

(1) make the report on a form prescribed by the department; and
 (2) submit with the report a properly assigned manufacturer's certificate of origin, regular certificate of title, nonrepairable vehicle title, salvage vehicle title, or comparable out-of-state ownership document for the motor vehicle.

(b) After receiving the report and title or document, the department shall issue the salvage vehicle dealer a receipt for the manufacturer's certificate of origin, regular certificate of title, nonrepairable vehicle title, salvage vehicle title, or comparable out-of-state ownership document.

(c) The salvage vehicle dealer shall:

~~[Sec. 501.0917. SALVAGE VEHICLE DEALER TO SUBMIT REPORT TO DEPARTMENT. (a) A salvage vehicle dealer that acquires an older model vehicle for the purpose of dismantling, scrapping, or destroying the vehicle and that receives a properly assigned certificate of title for the vehicle shall, before the 31st day after the date the dealer acquires the vehicle:]~~

~~(1) [submit to the department, on the form prescribed by the department, a report stating that the vehicle will be dismantled, scrapped, or destroyed, accompanied by the properly assigned regular certificate of title, salvage motor vehicle certificate of title, nonrepairable motor vehicle certificate of title, or comparable ownership document issued by another state or jurisdiction for the vehicle; and~~

~~[(2)] keep on the business premises of the dealer, until the third anniversary of the date the report on the motor vehicle is submitted to the department, a record of the motor vehicle, its ownership, and its condition as dismantled, scrapped, or destroyed; and~~

~~(2) [-~~

~~[(b) A salvage vehicle dealer that is required to submit a report under Subsection (a) shall] present to the department, on the form prescribed by the department, evidence that the motor vehicle was dismantled, scrapped, or destroyed before the 61st day after the date the dealer completed the dismantling, scrapping, or destruction of the motor vehicle.~~

Sec. 501.097 [501.0920]. APPLICATION FOR NONREPAIRABLE VEHICLE TITLE OR SALVAGE [MOTOR] VEHICLE [CERTIFICATE OF] TITLE. (a) An application for a [salvage motor vehicle certificate of title or a] nonrepairable vehicle title or salvage [motor] vehicle [certificate of] title must:

(1) be made on a form prescribed by the department and accompanied by a \$8 application fee [established by the department, not to exceed an amount that is sufficient, when added to other fees collected under this chapter, to recover the actual costs to the department of issuing the certificate]; [and]

(2) include, in addition to any other information required by the department:

(A) the name and current address of the owner;

(B) a description of the motor vehicle, including the make, style of body, model year, and vehicle identification number; and

(C) a statement describing whether the motor vehicle:

(i) was the subject of a total loss claim paid by an insurance company under Section 501.092 or 501.093;

(ii) is a self-insured motor vehicle under Section 501.094;

(iii) is an export-only motor vehicle under Section 501.099; or

(iv) was sold, transferred, or released to the owner or former owner of the motor vehicle, or a buyer at a casual sale; and

(3) include the name and address of:

(A) any currently recorded lienholder, if the motor vehicle is a nonrepairable motor vehicle; or

(B) any currently recorded lienholder or a new lienholder, if the motor vehicle is a salvage motor vehicle. [description of the damage to the vehicle;

(D) the estimated cost of repairs to the vehicle, including parts and labor; and

[(E) the predamaged actual cash value of the vehicle].

(b) On receipt of a complete application, the properly assigned title or manufacturer's certificate of origin and the [prescribed] application fee, the department shall, before the sixth business day after the date the department receives the application, issue the applicant the appropriate [a salvage motor vehicle certificate of] title for the [or a nonrepairable] motor vehicle [certificate of title, as appropriate].

(c) A nonrepairable [motor] vehicle [certificate of] title must state on its face that [-, except as provided by Sections 501.0925 and 501.0927,] the motor vehicle:

(1) may not:

(i) be repaired, rebuilt, or reconstructed;

(ii) be issued a regular certificate of title or registered in this state;

(iii) be operated on a public highway, in addition to any other requirement of law; and

(2) may only be used as a source for used parts or scrap metal.

(d) The fee collected under subsection (a)(1) shall be credited to the State Highway Fund to defray the costs of administering this subchapter and the costs to the department for issuing the title.

Sec. 501.098 [501.0924]. RIGHTS [POSSESSION AND OPERATION] OF HOLDER OF NONREPAIRABLE VEHICLE TITLE OR SALVAGE [MOTOR] VEHICLE TITLE. (a) A person who holds a nonrepairable vehicle title for a motor vehicle:

(1) is entitled to possess, transport, dismantle, scrap, destroy, record a lien as provided for in Section 501.097(a)(3)(A), and sell, transfer, or release ownership of the motor vehicle or a used part from the motor vehicle;

(2) may not:

(A) operate or permit the operation of the motor vehicle on a public highway, in addition to any other requirement of law;

(B) repair, rebuild, or reconstruct the motor vehicle; or

(C) register the motor vehicle.

(b) A person who holds a Nonrepairable Certificate of Title issued prior to September 1, 2003, is:

(1) entitled to:

(A) repair, rebuild, or reconstruct the motor vehicle;

(B) possess, transport, dismantle, scrap, destroy the motor vehicle; and

(C) sell, transfer, or release ownership of the vehicle or a used part from

the motor vehicle.

(2) may not:

(A) operate or permit the operation of the motor vehicle on a public highway, in addition to any other requirement of law; or

(B) register the motor vehicle.

(c) A person who holds a salvage [~~motor~~] vehicle [~~certificate of~~] title for a motor vehicle:

(1) is entitled to possess [~~the vehicle, record a lien on the vehicle~~], transport, dismantle, scrap, destroy, repair, rebuild, reconstruct, record a lien on [~~the vehicle~~], and sell, transfer, or release ownership of the motor vehicle or a used part from the motor vehicle; and [-]

(2) [~~(b) A vehicle for which a salvage motor vehicle certificate of title is the most current title~~] may not operate or permit the operation of the motor vehicle [~~be operated~~] on a public highway, in addition to any other requirement of law.

Sec. 501.099. SALE OF EXPORT-ONLY MOTOR VEHICLES. (a) This section applies to a nonrepairable motor vehicle or a salvage motor vehicle that is offered for sale in this state to a person who resides in a jurisdiction outside the United States.

(b) A person may purchase a nonrepairable motor vehicle or a salvage motor vehicle only if:

(1) the person purchases the motor vehicle from a licensed salvage vehicle dealer or a governmental entity;

(2) the motor vehicle has been issued a nonrepairable vehicle title or a salvage vehicle title; and

(3) the purchaser certifies to the seller on a form provided by the department that the purchaser will:

(A) remove the motor vehicle from the United States; and

(B) not return the motor vehicle to any state of the United States as a motor vehicle titled or registered under its manufacturer's vehicle identification number.

(c) A salvage vehicle dealer or a governmental entity that sells a nonrepairable motor vehicle or a salvage motor vehicle to a person who is not a resident of the United States shall, before the sale of the motor vehicle, obtain a copy, photocopy, or other accurate reproduction of a valid identification card, identification certificate, or an equivalent document issued to the purchaser by the appropriate authority of the jurisdiction in which the purchaser resides that bears a photograph of the purchaser and is capable of being verified using identification standards adopted by the United States or the international community.

(d) The department by rule shall establish a list of identification documents that are valid under Subsection (c) and provide a copy of the list to each holder of a salvage vehicle dealer license and to each appropriate governmental entity.

(e) A salvage vehicle dealer or a governmental entity that sells a nonrepairable motor vehicle or a salvage motor vehicle to a person who is not a resident of the United States shall:

(1) stamp on the face of the title so as not to obscure any name, date, or mileage statement on the title the words "FOR EXPORT ONLY" in capital letters that are black; and

(2) stamp in each unused reassignment space on the back of the title the words "FOR EXPORT ONLY" and print the number of the dealer's salvage vehicle license or the name of the governmental entity, as applicable.

(f) The words "FOR EXPORT ONLY" required by Subsection (e) must be at least two inches wide and clearly legible.

(g) A salvage vehicle dealer or governmental entity who sells a nonrepairable motor vehicle or a salvage motor vehicle under this section to a person who is not a resident of the United States shall keep on the business premises of the dealer or entity until the third anniversary of the date of the sale:

(1) a copy of each document related to the sale of the vehicle; and

(2) a list of all vehicles sold under this section that contains:

(A) the date of the sale;

(B) the name of the purchaser;

(C) the name of the country that issued the identification document provided by the purchaser, as shown on the document; and

(D) the vehicle identification number.

(h) This section does not prevent a person from exporting or importing a used part obtained from an export-only motor vehicle.

Sec. 501.100 [501.0922]. APPLICATION FOR REGULAR CERTIFICATE OF TITLE FOR SALVAGE [MOTOR] VEHICLE. (a) A vehicle for which a nonrepairable certificate of title issued prior to September 1, 2003 or a salvage [motor] vehicle [certificate of] title has been issued may be issued a regular certificate of title [only] after the motor vehicle has been repaired, rebuilt, or reconstructed by a person described by Section 501.104(a) [application] and, in addition to any other requirement of law, only if the application is accompanied by a separate form that:

(1) describes each major component part used to repair the motor vehicle; and

(2) shows the identification number required by federal law to be affixed to or inscribed on the part; and

~~(2) is accompanied by a written statement signed by a specially trained commissioned officer of the Department of Public Safety certifying to the department that:~~

~~[(A) the vehicle identification numbers and parts identification numbers are accurate;~~

~~[(B) the applicant has proof that the applicant owns the parts used to repair the vehicle; and~~

~~[(C) the vehicle may be safely operated and complies with all applicable motor vehicle safety standards of this state].~~

~~(b) [The Department of Public Safety may impose a fee, in an amount not to exceed the lesser of \$200 or the actual cost to that department, for conducting an inspection and providing the written statement required by Subsection (a):~~

~~[Sec. 501.0923. ISSUANCE OF CERTIFICATE OF TITLE FOR REBUILT SALVAGE MOTOR VEHICLE. (a)]~~ On receipt of a complete application under this section [Section 501.0922,] accompanied by the \$13 [peace officer's statement and the appropriate] fee for the certificate of title, the department shall issue the applicant a regular certificate of title for the motor vehicle.

(c) [(b)] A regular certificate of title issued under this section must:

(1) [bear on its face the words "REBUILT SALVAGE"; and
[(2)] describe or disclose the motor vehicle's former condition in a manner reasonably understandable to a potential purchaser of the motor vehicle; and

(2) bear on its face the words "REBUILT SALVAGE" in capital letters that:

(A) are red;

(B) are centered on and occupy at least 15 percent of the face of the certificate of title; and

(C) do not prevent any other words on the title from being read or copied.

(d) In addition to the fee described by Subsection (b), the applicant shall pay a \$65 rebuilder fee.

(e) On or after the 31st day after the date the department receives a rebuilder fee under Subsection (d), the department shall deposit \$50 of the fee to the credit of the state highway fund to be used only by the Department of Public Safety to enforce this chapter and \$15 to the credit of the general revenue fund.

(f) The department may not issue a regular certificate of title for a motor vehicle based on a:

(1) nonrepairable vehicle title or comparable out-of-state ownership document;

(2) receipt issued under Section 501.096(b); or

(3) certificate of authority.

Sec. 501.101 [501.0924]. ISSUANCE OF [CERTIFICATE OF] TITLE TO MOTOR VEHICLE [CERTAIN VEHICLES] BROUGHT INTO STATE. (a) This section applies only to [On proper application by the owner of] a motor vehicle brought into this state from another state or jurisdiction that has on any certificate of title or comparable out-of-state ownership document issued by the other state or jurisdiction:

(1) a "rebuilt," "salvage," ["nonrepairable,"] or similar [analogous] notation;
or

(2) a "nonrepairable," "dismantle only," "parts only," "junked," "scrapped," or similar notation.

(b) On receipt of a complete application from the owner of the motor vehicle, the department shall issue the applicant the appropriate [a] certificate of title [or other appropriate document] for the motor vehicle.

(c) ~~(b)~~ A certificate of title ~~[or other appropriate document]~~ issued under this section must show on its face:

- (1) the date of issuance;
- (2) the name and address of the owner;
- (3) any registration number assigned to the motor vehicle; and
- (4) a description of the motor vehicle or other ~~[as determined by the department; and~~

~~(5) any~~ notation the department considers necessary or appropriate.

Sec. 501.102 ~~[501.0926].~~ OFFENSES ~~[OFFENSE].~~ (a) A ~~[Except as provided by Section 501.0927, a]~~ person commits an offense if the person:

(1) applies to the department for a regular certificate of title for a motor vehicle; and

(2) knows or reasonably should know that:

(A) the vehicle is a nonrepairable motor vehicle that has been repaired, rebuilt, or reconstructed;

(B) the vehicle identification number assigned to the motor vehicle belongs to a nonrepairable motor vehicle that has been repaired, rebuilt, or reconstructed;

(C) the title issued to the motor vehicle belongs to a nonrepairable motor vehicle that has been repaired, rebuilt, or reconstructed;

(D) the vehicle identification number assigned to the motor vehicle belongs to an export-only motor vehicle;

(E) the motor vehicle is an export-only motor vehicle; or

(F) the motor vehicle is a nonrepairable motor vehicle or salvage motor vehicle for which a nonrepairable vehicle title, salvage vehicle title, or comparable ownership document issued by another state or jurisdiction has not been issued.

(b) A person commits an offense if the person knowingly sells, transfers, or releases a salvage motor vehicle in violation of this subchapter.

(c) A person commits an offense if the person knowingly fails or refuses to surrender a regular certificate of title after the person:

(1) receives a notice from an insurance company that the motor vehicle is a nonrepairable or salvage motor vehicle; or

(2) knows the vehicle has become a nonrepairable motor vehicle or salvage motor vehicle under Section 501.094.

(d) Except as provided by Subsection (e), an offense under this section is a Class C misdemeanor.

(e) If it is shown on the trial of an offense under this section that the defendant has been previously convicted of:

(1) one offense under this section, the offense is a Class B misdemeanor; or

(2) two or more offenses under this section, the offense is a state jail felony.

Sec. 501.103 ~~[501.0928].~~ COLOR OF NONREPAIRABLE VEHICLE TITLE OR [DEPARTMENT TO PRINT] SALVAGE [AND NONREPAIRABLE MOTOR] VEHICLE [CERTIFICATES OF] TITLE. (a) The department shall print a nonrepairable vehicle title:

(1) in a color that distinguishes it from a regular certificate of title or salvage vehicle title; and

(2) so that it clearly shows that it is the negotiable ownership document for a nonrepairable motor vehicle.

(b) A nonrepairable vehicle title must state on its face that the motor vehicle:

(1) may not be:

(A) issued a regular certificate of title;

(B) registered in this state; or

(C) repaired, rebuilt, or reconstructed; and

(2) may be used only as a source for used parts or scrap metal.

(c) The department shall print a salvage [motor] vehicle [certificates of] title:

(A) [~~and nonrepairable motor vehicle certificates of title~~] in a color that distinguishes it [~~them~~] from a regular certificate of title or nonrepairable vehicle [~~certificates of~~] title; and

(B) so that each document clearly shows that it is the ownership document for a [~~late model~~] salvage motor vehicle [~~or a nonrepairable motor vehicle~~].

(d) [~~(b) A nonrepairable motor vehicle certificate of title for a vehicle that is nonrepairable because of damage caused exclusively by flood must bear an appropriate notation on its face.~~

(~~e~~) A salvage [motor] vehicle [~~certificate of~~] title for a vehicle that is a salvage motor vehicle because of damage caused exclusively by flood must bear a [~~an appropriate~~] notation on its face that the department considers appropriate. If the title for a motor vehicle reflects the notation required by this subsection, the owner may sell, transfer, or release the motor vehicle only as provided by this subchapter.

(e) The department may provide a stamp to a person who is a licensed salvage vehicle dealer under Chapter 2302, Occupations Code, to mark the face of a title under this subchapter. The department shall provide the stamp to the person for a fee in the amount determined by the department to be necessary for the department to recover the cost of providing the stamp.

Sec. 501.104 [~~501.0929~~]. REBUILDER TO POSSESS [~~CERTIFICATE OF~~] TITLE OR OTHER DOCUMENTATION. (a) This section applies only to:

(1) a rebuilder licensed as a salvage vehicle dealer;

(2) a person engaged in the business of a rebuilder, regardless of whether the person is licensed to engage in that business; or

(3) a person engaged in the casual repair, rebuilding, or reconstruction of fewer than three motor vehicles in the same 12-month period.

(b) A person described by Subsection (a) [~~rebuilder~~] must possess:

(1) a regular certificate of title, [~~a salvage motor vehicle certificate of title, a nonrepairable vehicle title, salvage [motor] vehicle [certificate of] title, or [a comparable out-of-state ownership document [issued by another state or jurisdiction]~~] for any motor vehicle that is:

(A) owned by the person;

(B) [~~(1)~~] in the person's [~~rebuilder's~~] inventory; and

(C) [~~(2)~~] being offered for resale; or

(2) a contract entered into with the owner, a work order, or another document that shows the authority for the person to possess any motor vehicle that is:

(A) owned by another person;

(B) on the person's business or casual premises; and

(C) being repaired, rebuilt, or reconstructed for the other person.

~~[(b) A person who rebuilds a late model salvage motor vehicle for which the department has issued a salvage motor vehicle certificate of title, or who assembles a late model salvage motor vehicle from component parts, may apply to the department for a certificate of title for the vehicle. A certificate of title issued by the department under this subsection must bear the words "REBUILT SALVAGE."]~~

Sec. 501.105. RETENTION OF RECORDS RELATING TO CERTAIN CASUAL SALES. Each licensed salvage vehicle dealer or insurance company that sells a nonrepairable motor vehicle or a salvage motor vehicle at a casual sale shall keep on the business premises of the dealer or the insurance company a list of all casual sales made during the preceding 36-month period that contains:

- (1) the date of the sale;
- (2) the name of the purchaser;
- (3) the name of the jurisdiction that issued the identification document provided by the purchaser, as shown on the document; and
- (4) the vehicle identification number.

Sec. 501.106 ~~[501.0930]~~. ENFORCEMENT OF SUBCHAPTER. (a) This subchapter shall be ~~[exclusively]~~ enforced by the department and ~~[or]~~ any other governmental or law enforcement entity, including the Department of Public Safety, and the ~~[agency or its]~~ personnel of the entity~~[-except]~~ as provided by this subchapter.

(b) The department, ~~[or]~~ an agent, officer, or employee of the department, or another person enforcing this subchapter is not liable to a person damaged or injured by an act or omission relating to the issuance of a regular certificate of title, ~~[salvage motor vehicle certificate of title, or]~~ nonrepairable ~~[motor]~~ vehicle ~~[certificate of]~~ title, or salvage vehicle title under this subchapter.

Sec. 501.107 ~~[501.0931]~~. APPLICABILITY OF SUBCHAPTER TO RECYCLER. (a) This subchapter does not apply to~~[-and does not preclude or prohibit]~~ a sale to, purchase by, or other transaction by or with, a metal recycler ~~[person described by Subsection (g), Article 6687-2b, Revised Statutes,]~~ except as provided by Subsections (b) and (c).

(b) A metal recycler ~~[person described by Subsection (g), Article 6687-2b, Revised Statutes,]~~ shall submit to the department the properly assigned manufacturer's certificate of origin, regular certificate of title, nonrepairable vehicle title, salvage vehicle title, or comparable out-of-state ownership ~~[equivalent]~~ document that the person receives in conjunction with the purchase of a motor vehicle not later than the 60th day after the date the metal recycler ~~[person]~~ receives the ~~[certificate of]~~ title or out-of-state ownership ~~[equivalent]~~ document.

(c) This subchapter applies to a transaction with a metal recycler ~~[person described by Subsection (g), Article 6687-2b, Revised Statutes,]~~ in which a motor vehicle:

- (1) is sold or delivered to the metal recycler ~~[person]~~ for the purpose of reuse or resale as a motor vehicle or as a source of used ~~[motor vehicle]~~ parts; and
- (2) [if the motor vehicle] is ~~[so]~~ used for that purpose.

~~[(d) This subchapter does not:~~

~~[(1) prohibit the owner of a late model salvage motor vehicle or a nonrepairable motor vehicle from selling the vehicle to any person, if the vehicle is so classified solely because of water damage caused by a flood; or~~

~~[(2) limit the ability or authority of an insurance company to adjust or settle a claim for loss on a motor vehicle.]~~

SECTION ____ .03. Section 2302.001, Occupations Code, is amended to read as follows:

Sec. 2302.001. DEFINITIONS. In this chapter:

~~(1) ["Actual cash value" has the meaning assigned by Section 501.0911, Transportation Code.~~

~~[(2)] "Casual sale," "damage," "insurance company," "late model motor vehicle," "major component part," "metal recycler," "motor vehicle," "nonrepairable motor vehicle," "nonrepairable vehicle title," "out-of-state buyer," "salvage motor vehicle," "salvage vehicle title," "salvage vehicle dealer," and "used part" have [has] the meanings [meaning] assigned by Section 501.091 [501.0911], Transportation Code.~~

~~(2) [(3)] "Commission" means the Texas Transportation Commission.~~

~~(3) [(4)] "Department" means the Texas Department of Transportation.~~

~~(4) [(5)] "Federal safety certificate" means the label or tag required under 49 U.S.C. Section 30115 that certifies that a motor vehicle or equipment complies with applicable federal motor vehicle safety standards.~~

~~(5) [(6)] "Late model motor vehicle" has the meaning assigned by Section 501.0911, Transportation Code.~~

~~(7) "Major component part" has the meaning assigned by Section 501.0911, Transportation Code.~~

~~(8) "Motor vehicle" has the meaning assigned by Section 541.201, Transportation Code.~~

~~(9) "Nonrepairable motor vehicle certificate of title" has the meaning assigned by Section 501.0911, Transportation Code.~~

~~(10) "Out of state buyer" has the meaning assigned by Section 501.0911, Transportation Code.~~

~~(11) "Person" means an individual, partnership, corporation, trust, association, or other private legal entity.~~

~~(12) "Salvage motor vehicle certificate of title" has the meaning assigned by Section 501.0911, Transportation Code.~~

~~(13) "Salvage part" means a major component part of a salvage motor vehicle that is serviceable to the extent that it can be reused.~~

~~(14) "Salvage pool operator" means a person who engages in the business of selling nonrepairable motor vehicles or salvage motor vehicles at auction, including wholesale auction, or otherwise.~~

~~(6) [(15)] "Salvage vehicle agent" means a person who acquires, sells, or otherwise deals [employed by a salvage vehicle dealer to acquire, sell, or deal] in nonrepairable or salvage motor vehicles or used [salvage] parts in this state as directed by the salvage vehicle dealer under whose license the person operates. The term does not include a person who:~~

~~(A) is a licensed salvage vehicle dealer;~~

(B) is a partner, owner, or officer of a business entity that holds a salvage vehicle dealer license;

(C) is an employee of a licensed salvage vehicle dealer; or

(D) only transports salvage motor vehicles for a licensed salvage vehicle dealer.

~~[(16) "Salvage vehicle dealer" means a person licensed under this chapter who engages in the business of acquiring, selling, dismantling, repairing, or dealing in salvage motor vehicles or vehicle parts of a type required to be covered by a salvage motor vehicle certificate of title or nonrepairable motor vehicle certificate of title.]~~

SECTION ____ .04. Subchapter A, Chapter 2302, Occupations Code, is amended by adding Section 2302.0015 to read as follows:

Sec. 2302.0015. CONSENT TO ENTRY AND INSPECTION. (a) A person consents to an entry or inspection described by Subsection (b) by:

(1) accepting a license under this chapter; or

(2) engaging in a business or activity regulated under this chapter.

(b) For the purpose of enforcing or administering this chapter or Chapter 501 or 502, Transportation Code, a member of the commission, an employee or agent of the commission or department, a member of the Public Safety Commission, an officer of the Department of Public Safety, or a peace officer may at a reasonable time:

(1) enter the premises of a business regulated under one of those chapters;
and

(2) inspect or copy any document, record, vehicle, part, or other item regulated under one of those chapters.

(c) A person described by Subsection (a):

(1) may not refuse or interfere with an entry or inspection under this section;
and

(2) shall cooperate fully with a person conducting an inspection under this section to assist in the recovery of stolen motor vehicles and parts and to prevent the sale or transfer of stolen motor vehicles and parts.

(d) An entry or inspection occurs at a reasonable time for purposes of Subsection (b) if the entry or inspection occurs:

(1) during normal business hours of the person or activity regulated under this chapter; or

(2) while an activity regulated under this chapter is occurring on the premises.

SECTION ____ .05. Sections 2302.005, 2302.006, 2302.007, 2302.051, 2302.052, and 2302.101, Occupations Code, are amended to read as follows:

Sec. 2302.005. APPLICABILITY OF CERTAIN MUNICIPAL ORDINANCES, LICENSES, AND PERMITS. This chapter ~~[Subchapters B-E]:~~

(1) is ~~are~~ in addition to any municipal ordinance relating to the regulation of a person who deals in nonrepairable or salvage motor vehicles or used parts; and

(2) does ~~do~~ not prohibit the enforcement of a requirement of a municipal license or permit that is related to an activity regulated under this chapter ~~[those subchapters].~~

Sec. 2302.006. APPLICATION OF CHAPTER [~~SUBCHAPTERS B-E~~] TO METAL RECYCLERS. (a) Except as provided by Subsections [~~Subsection~~] (b) and (c), this chapter does [~~Subchapters B-E do~~] not apply to a transaction in which a metal recycler is a party.

(b) This chapter applies to [~~other than~~] a transaction in which a motor vehicle:

(1) is sold, transferred, released, or delivered to a [~~the~~] metal recycler for the purpose of reuse or resale as a motor vehicle or as a source of used [~~motor vehicle~~] parts; and

(2) is used for that purpose.

(c) [~~(b)~~] Sections 2302.0015 and [~~Section~~] 2302.205 apply [~~applies~~] to a metal recycler.

[~~(e) Subchapter G does not apply to a sale or purchase by a metal recycler.~~]

Sec. 2302.007. APPLICATION OF CHAPTER [~~SUBCHAPTERS B-E~~] TO INSURANCE COMPANIES. This chapter does [~~Subchapters B-E do~~] not apply to an insurance company [~~authorized to engage in the business of insurance in this state~~].

Sec. 2302.051. RULES AND ENFORCEMENT POWERS. The commission shall adopt rules as necessary to administer this chapter [~~subchapter and Subchapters A and C-E~~] and may take other action as necessary to enforce this chapter [~~those subchapters~~].

Sec. 2302.052. DUTY TO SET FEES. The commission shall set application fees, license fees, renewal fees, and other fees as required to implement this chapter [~~Subchapters C-E~~]. The commission shall set the fees in amounts reasonable and necessary to implement and enforce this chapter [~~those subchapters~~].

Sec. 2302.101. LICENSE REQUIRED FOR SALVAGE VEHICLE DEALER.

[~~(a) In this section, "automobile recycler" has the meaning assigned by Section 501.0911, Transportation Code.~~]

[~~(b)~~] Unless a person holds a salvage vehicle dealer license issued under this chapter, the person may not:

(1) act as a salvage vehicle dealer or rebuilder [~~an automobile recycler~~]; or

(2) store or display a motor vehicle as an agent or escrow agent of an insurance company.

SECTION _____.06. Section 2302.107(d), Occupations Code, is amended to read as follows:

(d) A salvage vehicle agent may acquire, sell, or otherwise deal in [~~late model salvage motor vehicles,~~] nonrepairable or salvage motor vehicles or used [~~or salvage~~] parts as directed by the authorizing dealer.

SECTION _____.07. Sections 2302.201, 2302.202, 2302.204, 2302.205, 2302.251, 2302.302, 2302.351, and 2302.353, Occupations Code, are amended to read as follows:

Sec. 2302.201. DUTIES ON ACQUISITION OF SALVAGE MOTOR VEHICLE. (a) A salvage vehicle dealer who acquires ownership of a salvage motor vehicle from an owner must receive from the owner a properly [~~an~~] assigned [~~certificate of~~] title.

(b) ~~The [If the assigned certificate of title is not a salvage motor vehicle certificate of title, a nonrepairable motor vehicle certificate of title, or a comparable ownership document issued by another state or jurisdiction, the]~~ dealer shall comply with Subchapter E, Chapter 501 [Section 501.0916(b)], Transportation Code.

Sec. 2302.202. RECORDS OF PURCHASES. A salvage vehicle dealer ~~[license holder]~~ shall maintain a record of each salvage motor vehicle and each used [salvage] part purchased or sold by the dealer [license holder].

Sec. 2302.204. CASUAL SALES. ~~This chapter does [This subchapter and Subchapters B-D do]~~ not apply to a person who purchases fewer than three [a] nonrepairable motor vehicles [vehicle] or salvage motor vehicles [vehicle] from a salvage vehicle dealer, an insurance company or salvage pool operator in a casual sale at auction, except that:

(1) the commission shall adopt rules as necessary to regulate casual sales by salvage vehicle dealers, insurance companies, or salvage pool operators and to enforce this section; and

(2) a salvage vehicle dealer, insurance company, or salvage pool operator who sells a motor vehicle in a casual sale shall comply with those rules and Subchapter E, Chapter 501, Transportation Code.

Sec. 2302.205. DUTY OF METAL RECYCLER. A metal recycler who purchases a motor vehicle shall submit a regular certificate of title or a nonrepairable or salvage vehicle[, not later than the 60th day after the date the recycler receives the certificate of] title or comparable out-of-state ownership [equivalent document in conjunction with the purchase, submit the certificate or] document to the department and comply with Subchapter E, Chapter 501, Transportation Code.

Sec. 2302.251. DEFINITIONS. In this subchapter:

(1) "Component part" means a major component part as defined in Section 501.091, Transportation Code, or a minor component part[~~:~~

~~[(A) a front end assembly or tail section;~~

~~[(B) the cab of a light or heavy truck;~~

~~[(C) the bed of a one ton or lighter truck; or~~

~~[(D) an interior component part, a special accessory part, or a motor vehicle part that displays or should display one or more of the following:~~

~~[(i) a federal safety certificate;~~

~~[(ii) a motor number;~~

~~[(iii) a serial number;~~

~~[(iv) a manufacturer's permanent vehicle identification number; or~~

~~[(v) a derivative of a vehicle identification number].~~

(2) ~~["Front end assembly" means a motor vehicle hood, right or left front fender, grill, bumper, radiator, or radiator support, if two or more of those parts are assembled together as one unit.~~

~~[(3) "Interior component part" means a [the front or rear] seat or [the] radio of a motor vehicle.~~

(3) "Minor component part" means an interior component part, a special accessory part, or a motor vehicle part that displays or should display one or more of the following:

(A) a federal safety certificate;

(B) a motor number;

(C) a serial number or a derivative; or

(D) a manufacturer's permanent vehicle identification number or a derivative.

(4) "Special accessory part" means a tire, wheel, tailgate, or removable glass top of a motor vehicle.

~~[(5) "Tail section" means a motor vehicle roof, floor pan, right or left rear quarter panel, deck lid, or rear bumper, if two or more of those parts are assembled together as one unit.]~~

Sec. 2302.302. LIMITS ON OPERATION OF HEAVY MACHINERY. (a) A salvage vehicle dealer may not operate heavy machinery in a motor vehicle salvage yard between the hours of 7 p.m. of one day and 7 a.m. of the following day.

(b) This section does not apply to conduct necessary to a sale or purchase by the dealer.

Sec. 2302.351. INJUNCTIONS. (a) The prosecutor in the county where a motor vehicle salvage yard is located or the city attorney in the municipality where the salvage yard is located may bring suit to enjoin for a period of less than one year a violation of this chapter ~~[Subchapter G].~~

(b) If a salvage vehicle dealer, ~~[or]~~ an employee of the dealer acting in the course of employment, or a salvage vehicle agent operating under the dealer's license is convicted of more than one offense under Section 2302.353(a) ~~[2302.353(a)(2) or (b)]~~, the district attorney for a ~~[the]~~ county in which the dealer's salvage business is located may bring an action in that county to enjoin the dealer's business operations for a period of at least one year.

(c) An action under Subsection (b) must be brought in the name of the state. If judgment is in favor of the state, the court shall:

(1) enjoin the dealer from maintaining or participating in the business of a salvage vehicle dealer for a definite period of at least one year or indefinitely, as determined by the court; and

(2) order that the dealer's place of business be closed for the same period.

Sec. 2302.353. OFFENSES. (a) A person commits an offense if the person knowingly violates:

(1) a provision of this chapter other than Subchapter G ~~[Subchapter C, D, or E or a rule adopted under Subchapter C, D, or E];~~ or

(2) a rule adopted under a provision of this chapter other than Subchapter G ~~[Subchapter F].~~

~~(b) [A person commits an offense if the person violates Subchapter F in conjunction with a violation of Section 31.03, Penal Code.]~~

~~(c)~~ (e) A person commits an offense if the person knowingly violates Subchapter G.

~~(c) [(d) An offense under Subsection (a) is a Class A misdemeanor.]~~

~~(c)~~ (e) An offense under Subsection (a) ~~[(b)]~~ is a Class A misdemeanor unless it is shown on the trial of the offense that the defendant has been previously convicted of an offense under that subsection, in which event the offense is punishable as a state jail felony ~~[of the third degree].~~

~~(d) [(f)]~~ (d) An offense under Subsection (b) ~~[(e)]~~ is a Class C misdemeanor.

SECTION ____ .08. Section 152.001(4), Tax Code, is amended to read as follows:

(4) "Motor Vehicle" does not include:

- (A) a device moved only by human power;
- (B) a device used exclusively on stationary rails or tracks;
- (C) road-building machinery;
- (D) a mobile office;
- (E) a vehicle with respect to which the certificate of title has been surrendered in exchange for:

surrendered in exchange for:

(i) a salvage vehicle title [~~certificate~~] issued pursuant to Chapter 501, Transportation Code;

(ii) a certificate of authority issued pursuant to Chapter 683, Transportation Code;

(iii) a nonrepairable [~~motor~~] vehicle [~~certificate of~~] title issued pursuant to Chapter 501, Transportation Code;

(iv) an ownership document issued by another state if the document is comparable to a document issued pursuant to Subparagraph (i), (ii), or (iii); or

(F) a vehicle that has been declared a total loss by an insurance company pursuant to the settlement or adjustment of a claim.

SECTION ____ .09. The following provisions are repealed:

(1) Sections 501.0913, 501.0914, 501.0918, 501.0919, 501.0925, and 501.0927, Transportation Code; and

(2) Sections 2302.002, 2302.003, 2302.004, and 2302.352, Occupations Code.

SECTION ____ .10. This article takes effect September 1, 2003.

SECTION ____ .11. (a) A person who owns a nonrepairable motor vehicle for which a nonrepairable motor vehicle certificate of title was issued before the effective date of this article may repair, rebuild, or reconstruct the motor vehicle and receive a regular certificate of title for the motor vehicle.

(b) On the effective date of this article, the Department of Transportation shall:

(1) deem a salvage certificate issued before the effective date of this Act to be a salvage vehicle certificate of title; and

(2) discontinue issuance of salvage certificates.

(c) On the effective date of this article, the Texas Department of Transportation shall consider a salvage motor vehicle certificate of title issued before the effective date of this article to be a salvage vehicle title.

(d) On the effective date of this article, the Texas Department of Transportation shall issue a nonrepairable vehicle title as the certificate of authority to dispose of a motor vehicle as provided for in Chapter 683, Transportation Code.

SECTION ____ .12. (a) The changes in law made by this article apply only to an offense committed on or after the effective date of this article. For purposes of this section, an offense was committed before the effective date of this article if any element of the offense occurred before the effective date.

(b) An offense committed before the effective date of this article is covered by the law in effect when the offense was committed, and the former law is continued in effect for this purpose.

The floor amendment was read.

Senator Ogden moved to table Floor Amendment No. 28.

The motion to table failed by the following vote: Yeas 14, Nays 16.

Yeas: Averitt, Bivins, Carona, Duncan, Estes, Fraser, Harris, Jackson, Nelson, Ogden, Ratliff, Shapiro, Staples, Williams.

Nays: Armbrister, Barrientos, Brimer, Deuell, Ellis, Gallegos, Hinojosa, Lindsay, Lucio, Madla, Shapleigh, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Absent: Janek.

Question recurring on the adoption of Floor Amendment No. 28, the amendment was adopted by a viva voce vote.

Senator Ogden offered the following amendment to the bill:

Floor Amendment No. 29 on Third Reading

Amend **CSHB 3588** by adding the following appropriately numbered article and renumbering subsequent articles accordingly:

ARTICLE ____ . TEXAS TURNPIKE AUTHORITY

SECTION __.01. Section 201.112(a), Transportation Code, is amended to read as follows:

(a) The commission may by rule establish procedures for the informal resolution of a claim arising out of a contract described by:

- (1) Section 22.018;
- (2) Chapter 223; [~~or~~]
- (3) Chapter 361; or
- (4) Chapter 2254, Government Code.

SECTION __.02. The heading to Chapter 361, Transportation Code, is amended to read as follows:

CHAPTER 361. STATE HIGHWAY [TEXAS] TURNPIKE
PROJECTS [AUTHORITY]

SECTION __.03. Sections 361.001(2), (3), (4), and (5), Transportation Code, are amended to read as follows:

(2) [~~"Board" means the board of directors of the authority.~~]
[~~(3)~~] "Owner" includes a person having title to or an interest in any property, rights, easements, and interests authorized to be acquired under this chapter.

[~~(3)~~]~~(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 department [authority] considers necessary to operate the project;

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

(E) a parking area or structure, rest stop, park, and any other improvement or amenity the department [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, or tunnel.

(4) ~~[(5)]~~ "Regional tollway authority" means a regional tollway authority created under Chapter 366.

SECTION __.04. The heading to Subchapter B, Chapter 361, Transportation Code, is amended to read as follows:

SUBCHAPTER B. ADMINISTRATIVE PROVISIONS

~~[TEXAS TURNPIKE AUTHORITY]~~

SECTION __.05. Section 361.031, Transportation Code, as amended by Chapters 920 and 1237, Acts of the 77th Legislature, Regular Session, 2001, is reenacted and amended to read as follows:

Sec. 361.031. TEXAS TURNPIKE AUTHORITY. (a) The Texas Turnpike Authority is a division of the Texas Department of Transportation. The [that has full] authority is responsible for promoting and coordinating the development of turnpike projects under this chapter. The commission and the director shall assign duties to [exercise all powers granted to it under this chapter. Powers granted to the department under this chapter and Chapter 362 to study, design, construct, operate, expand, enlarge, or extend a turnpike project as a part of the state highway system shall be exercised by the department acting by and through] the authority and other offices of the department as appropriate for the proper administration of this chapter and other law.

(b) The exercise by the department [authority] of the powers conferred by this chapter in the construction, operation, and maintenance of a turnpike project is:

(1) in all respects for the benefit of the people of this state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions and public safety; and

(2) an essential governmental function of the state.

SECTION __.06. Section 361.042, Transportation Code, is redesignated as Section 361.032, Transportation Code, and amended to read as follows:

Sec. 361.032 [361.042]. GENERAL POWERS AND DUTIES. (a) The commission [board] shall~~[-~~

~~[(1) on its own initiative or at the request of the commission, consider, study, plan, and develop turnpike projects under this chapter;~~

~~[(2)] adopt rules for the implementation and administration of this chapter [regulation of its affairs and the conduct of its business]; and~~

~~[(3) undertake such other duties as are delegated to it by the commission].~~

(b) The department [authority] may:

(1) construct, maintain, repair, and operate turnpike projects in this state;

(2) acquire, hold, and dispose of property in the exercise of its powers and the performance of its duties under this chapter;

(3) with the approval of the governor and the commission, enter into contracts or operating agreements with similar authorities or agencies of another state, including a state of the United Mexican States;

(4) enter into contracts or agreements necessary or incidental to its duties and powers under this chapter;

(5) employ consulting engineers, accountants, construction and financial experts, superintendents, managers, and other employees and agents the department [~~authority~~] considers necessary and set their compensation;

(6) [~~employ attorneys to advance or defend legal actions pertaining to the division's activities, notwithstanding any other law to the contrary, including Section 402.0212, Government Code;~~

~~[(7)]~~ receive grants for the construction of a turnpike project and receive contributions of money, property, labor, or other things of value from any source to be used for the purposes for which the grants or contributions are made;

~~(7) notwithstanding Chapter 2113, Government Code, [(8) adopt and enforce rules not inconsistent with this chapter for the use of any turnpike project, including rules establishing speed limits and maximum allowable vehicle and load weight limits for turnpike projects;~~

~~[(9)]~~ engage in marketing, advertising, and other activities to promote the development and use of turnpike projects and may enter into contracts or agreements necessary to procure marketing, advertising, or other promotional services from outside service providers;

~~[(10) with the concurrence of the commission, form, develop, or utilize a corporation created under Chapter 431 for the promotion and development of turnpike projects;]~~ and

(8) [~~(11)~~] do all things necessary or appropriate to carry out the powers expressly granted by this chapter.

SECTION __.07. Section 361.054, Transportation Code, is redesignated as Section 361.033, Transportation Code, and amended to read as follows:

Sec. 361.033 [~~361.054~~]. AUDIT. Notwithstanding any other law to the contrary, the department [~~authority~~] shall have an independent certified public accountant audit the department's [~~authority's~~] books and accounts for activities under this chapter at least annually. The audit shall be conducted in accordance with the requirements of any trust agreement securing bonds issued under this chapter that is in effect at the time of the audit. The cost of the audit may be treated as part of the cost of construction or operation of a turnpike project. This section does not affect the ability of a state agency to audit the department's [~~authority's~~] books and accounts.

SECTION __.08. The heading to Subchapter C, Chapter 361, Transportation Code, is amended to read as follows:

SUBCHAPTER C. DEVELOPMENT [~~APPROVAL~~] OF
TURNPIKE PROJECTS

SECTION __.09. Section 361.101, Transportation Code, is amended to read as follows:

Sec. 361.101. DETERMINATION OF TURNPIKE PROJECTS. The department [~~authority~~] may:

(1) construct, maintain, repair, and operate a turnpike project to:

(A) facilitate vehicular traffic throughout this state;
 (B) promote the agricultural and industrial development of this state;
 (C) effect traffic safety; or
 (D) improve connections between highways of this state, adjoining states, and the United Mexican States; and

(2) at any time determine to undertake a turnpike project, except that the commission by order must approve [~~the location of the project before~~] final designation.

SECTION __.10. Section 361.103, Transportation Code, is amended to read as follows:

Sec. 361.103. APPLICATION OF OTHER LAW. All other law applicable to the department, the commission, or the state highway system shall apply to the development, construction, maintenance, and operation of a turnpike project under this chapter unless in conflict with a provision of this chapter. [~~ENVIRONMENTAL REVIEW.~~ (a) The authority by rule shall provide for the authority's environmental review of turnpike projects. The rules must provide for:

~~[(1) public comment on environmental reviews of turnpike projects, including the types of projects for which public hearings are required, and a procedure for requesting a public hearing on an environmental review for which a public hearing is not required;~~

~~[(2) the environmental factors and impacts the authority will evaluate in its environmental reviews; and~~

~~[(3) environmental review of alternate routes for a proposed turnpike project.~~

~~[(b) The environmental review of a turnpike project must be conducted before the location or alignment of the project is adopted.~~

~~[(c) The commission must approve each environmental review under this section before construction of a turnpike project begins.~~

~~[(d) At least once during each five year period, the authority, after a public hearing, shall review the rules relating to environmental review and make appropriate changes.]~~

SECTION __.11. Subchapter C, Chapter 361, Transportation Code, is amended by adding Section 361.104 to read as follows:

Sec. 361.104. ENTRANCES AND EXITS OF TURNPIKE PROJECT. The department shall:

(1) designate the location of and establish, limit, and control the entrances and exits of a turnpike project as considered necessary or desirable to ensure the proper operation and maintenance of the project; and

(2) prohibit entrance to a project at any place not designated as an entrance.

SECTION __.12. Section 361.131, Transportation Code, is amended to read as follows:

Sec. 361.131. POWERS AND PROCEDURES OF DEPARTMENT [~~AUTHORITY~~] IN ACQUIRING PROPERTY. Except as otherwise provided by this chapter, the department [~~authority, acting by and through the board,~~] has the same powers and may use the same procedures:

(1) in acquiring property under this chapter as the commission or the department in acquiring property under Subchapter D, Chapter 203; and

(2) in disposing of surplus property acquired under this chapter as the commission or the department under Subchapter B, Chapter 202.

SECTION __.13. Section 361.132, Transportation Code, is amended to read as follows:

Sec. 361.132. ACQUISITION OF PROPERTY. (a) The department [authority] may acquire, in the name of the state, public or private real property it determines necessary or convenient for the construction, expansion, enlargement, extension, improvement, or operation of a turnpike project or for otherwise carrying out this chapter.

(b) The real property the department [authority] may acquire under this subchapter includes:

- (1) public parks, playgrounds, or reservations;
- (2) parts of or rights in public parks, playgrounds, or reservations;
- (3) rights-of-way;
- (4) property rights, including:
 - (A) a right of ingress or egress; and
 - (B) a reservation right in real property that restricts or prohibits for not

more than seven years the:

- (i) addition of a new improvement on the real property;
- (ii) addition to or modification of an existing improvement on the

real property; or

- (iii) subdivision of the real property;

- (5) franchises;
- (6) easements; and
- (7) other interests in real property.

(c) The department [authority] may acquire the real property by any method, including purchase and condemnation. The department [authority] may purchase public or private real property on the terms and at the price the department [authority] and the owner consider reasonable.

(d) Property necessary or convenient for the construction or operation of a turnpike project under Subsection (a) includes an interest in real property, a property right, or materials that the department [authority] determines are necessary or convenient to:

- (1) protect a turnpike project;
- (2) drain a turnpike project;
- (3) divert a stream, river, or other watercourse from the right-of-way of a turnpike project;
- (4) store materials or equipment used in the construction or maintenance of a turnpike project;
- (5) provide a location for an ancillary facility that generates revenue for use in the construction, maintenance, or operation of a turnpike project, including a gas station, garage, store, hotel, or restaurant;

(6) construct or operate a warehouse, toll house, toll plaza, service station, or other facility used in connection with the construction, maintenance, or operation of a turnpike project;

- (7) [~~6~~] lay out, construct, or maintain a roadside park;

(8) [(7)] lay out, construct, or maintain a parking lot that will contribute to the maximum use of a turnpike project with the least possible congestion;

(9) [(8)] mitigate an adverse environmental effect that directly results from the construction or maintenance of a turnpike project; or

(10) [(9)] accomplish any other purpose related to the location, construction, improvement, maintenance, beautification, preservation, or operation of a turnpike project.

(e) The department [~~authority~~] shall comply with all relocation assistance procedures applicable to the department in connection with any displacement of owners or tenants as a consequence of the department's [~~authority's~~] acquisition of real property under this chapter.

(f) The department [~~authority~~] may acquire timber, earth, stone, gravel, or other materials as necessary to carry out a purpose under this chapter.

SECTION __.14. Sections 361.133(b) and (c), Transportation Code, are amended to read as follows:

(b) The governing body of a political subdivision or public agency may without advertising convey title to or rights or easements in real property the department [~~authority~~] needs in connection with the construction or operation of a turnpike project.

(c) Notwithstanding any law to the contrary, a political subdivision or a state agency may lease, lend, grant, or convey to the department [~~authority~~] at its request real property, including highways and other real property already devoted to public use, that may be necessary or appropriate to accomplish the department's [~~authority's~~] purposes. The political subdivision or state agency may lease, lend, grant, or convey the property:

(1) on terms the subdivision or agency determines reasonable and fair; and

(2) without advertisement, court order, or other action or formality other than the regular and formal action of the subdivision or agency concerned.

SECTION __.15. Section 361.134, Transportation Code, is amended to read as follows:

Sec. 361.134. DESCRIPTION OF REAL PROPERTY. Real property acquired by the department under this chapter [~~authority~~] shall be described so as to locate the boundary line of the property with reference to:

(1) lot and block lines and corners of all existing and recorded subdivision properties, if applicable; or

(2) survey lines and corners.

SECTION __.16. Section 361.135, Transportation Code, is amended to read as follows:

Sec. 361.135. CONDEMNATION OF REAL PROPERTY. (a) The [~~board, with the concurrence of the~~] commission[;] may approve the acquisition of [~~acquire~~] public or private real property in the name of the state by the exercise of the power of condemnation under the laws applicable to the exercise of that power on property for public use if:

(1) the department [~~authority~~] and the owner cannot agree on a reasonable price for the property; or

(2) the owner is legally incapacitated, absent, unknown, or unable to convey title.

(b) The ~~[board, with the concurrence of the]~~ commission~~[-]~~ may approve the condemnation of [condemn] real property that the commission [authority] determines is:

(1) necessary or convenient for the construction or operation of [appropriate to construct or to efficiently operate] a turnpike project, as described by Section 361.132(d);

(2) necessary to restore public or private property damaged or destroyed, including property necessary or convenient to mitigate an environmental effect that directly results from the construction, operation, or maintenance of a turnpike project;

(3) necessary for access, approach, service, and interchange roads;

(4) necessary to provide proper drainage and ground slope for a turnpike project; or

(5) necessary otherwise to carry out this chapter.

(c) ~~[The authority may construct a supplemental facility only on real property the authority purchases.~~

~~[(d)]~~ The court having jurisdiction of a condemnation proceeding may:

(1) make orders as are just to the department [authority] and the owners of the real property; and

(2) require an undertaking or other security to secure the owners against any loss or damage by reason of the department's [board's] failure to accept and pay for the real property.

~~(d) [(e)]~~ An undertaking or security under Subsection ~~(c)(2) [(e)(2)]~~ or an act or obligation of the department [authority] or the commission [board] does not impose any liability on the state, the department [authority], or the commission [board] except liability that may be paid from the money authorized by this chapter.

SECTION __.17. Section 361.136, Transportation Code, is amended to read as follows:

Sec. 361.136. SEVERANCE OF REAL PROPERTY. (a) If a turnpike project severs an owner's real property, the department [authority] shall pay:

(1) the value of the property acquired; and

(2) the damages to the remainder of the owner's property caused by the severance, including damages caused by the inaccessibility of one tract from the other.

(b) The department [authority] may negotiate for and purchase the severed real property or either part of the severed real property if the department [authority] and the owner agree on terms for the purchase.

SECTION __.18. Sections 361.137(a), (b), (c), and (d), Transportation Code, are amended to read as follows:

(a) The department [authority] may file a declaration of taking with the clerk of the court:

(1) in which the department [authority] files a condemnation petition under Chapter 21, Property Code; or

(2) to which the case is assigned.

(b) The department ~~[authority]~~ may file the declaration of taking concurrently with or subsequent to the petition but may not file the declaration after the special commissioners have made an award in the condemnation proceeding.

(c) The department may not file a declaration of taking before the completion of:

(1) all environmental documentation, including a final environmental impact statement or a record of decision, that is required by federal or state law;

(2) all public hearings and meetings, including those held in connection with the environmental process and under Sections 201.604 and 203.021, that are required by federal or state law; and

(3) all notifications required by Section 203.022.

(d) ~~(e)~~ The declaration of taking must include:

(1) a specific reference to the legislative authority for the condemnation;

(2) a description and plot plan of the real property to be condemned, including the following information if applicable:

(A) the municipality in which the property is located;

(B) the street address of the property; and

(C) the lot and block number of the property;

(3) a statement of the property interest to be condemned;

(4) the name and address of each property owner that the department ~~[authority]~~ can obtain after reasonable investigation and a description of the owner's interest in the property; and

(5) a statement that immediate possession of all or part of the property to be condemned is necessary for the timely construction of a turnpike project.

(e) ~~(d)~~ A deposit to the registry of the court of an amount equal to the appraised value, as determined by the department ~~[authority]~~, of the property to be condemned must accompany the declaration of taking.

SECTION __.19. Sections 361.138(a) and (b), Transportation Code, are amended to read as follows:

(a) Immediately on the filing of a declaration of taking, the department ~~[authority]~~ shall serve a copy of the declaration on each person possessing an interest in the condemned property by a method prescribed by Section 21.016(d), Property Code. The department ~~[authority]~~ shall file evidence of the service with the clerk of the court. On filing of that evidence, the department ~~[authority]~~ may take possession of the property pending the litigation.

(b) If the condemned property is a homestead or a portion of a homestead as defined by Section 41.002, Property Code, the department ~~[authority]~~ may not take possession sooner than the 91st ~~[31st]~~ day after the date of service under Subsection (a).

SECTION __.20. Section 361.141(a), Transportation Code, is amended to read as follows:

(a) The department ~~[authority]~~ may not pay compensation for public real property, parkways, streets, highways, alleys, or reservations it takes, except for:

(1) parks and playgrounds; and

(2) property acquired under restrictions and limitations requiring payment of compensation.

SECTION __.21. Section 361.142, Transportation Code, is amended to read as follows:

Sec. 361.142. COVENANTS, CONDITIONS, RESTRICTIONS, OR LIMITATIONS. Covenants, conditions, restrictions, or limitations affecting property acquired in any manner by the department [~~authority~~] are not binding against the department [~~authority~~] and do not impair the department's [~~authority's~~] ability to use the property for a purpose authorized by this chapter. The beneficiaries of the covenants, conditions, restrictions, or limitations are not entitled to enjoin the department [~~authority~~] from using the property for a purpose authorized under this chapter, but this section does not affect the right of a person to seek damages to the person's property under Section 17, Article I, Texas Constitution.

SECTION __.22. Section 361.171, Transportation Code, is amended to read as follows:

(a) The commission [~~authority~~] by order [~~resolution~~] may authorize [~~provide for~~] the issuance of turnpike revenue bonds to pay all or part of the cost of a turnpike project. Each project shall be financed and built by a separate bond issue. The proceeds of a bond issue may be used solely for the payment of the project for which the bonds were issued and may not be divided between or among two or more projects. Each project is a separate undertaking, the cost of which shall be determined separately.

(b) As determined in the order authorizing the issuance, the [~~The~~] bonds of each issue shall:

- (1) [~~must~~] be dated;
- (2) bear interest at the rate or rates provided by the order and beginning on the dates provided by the order and as authorized by law, or bear no interest;
- (3) mature at the time or times provided by the order, not exceeding 40 years from their date or dates, [~~determined by the authority~~]; and
- (4) [~~may~~] be made redeemable before maturity, at the price or prices and under the terms provided by the order [~~set by the authority in the proceeding authorizing the issuance of the bonds~~].

(c) The commission [~~authority~~] may sell the bonds at public or private sale in the manner and for the price it determines to be in the best interest of the department [~~authority~~].

(d) The proceeds of each bond issue shall be disbursed in the manner and under the restrictions, if any, the commission [~~authority~~] provides in the order [~~resolution~~] authorizing the issuance of the bonds or in the trust agreement securing the bonds.

(e) If the proceeds of a bond issue are less than the turnpike project cost, additional bonds may in like manner be issued in the same manner to pay the costs of a turnpike project [~~provide the amount of the deficit~~]. Unless otherwise provided in the order [~~resolution~~] authorizing the issuance of the bonds or in the trust agreement securing the bonds, the additional bonds are on a parity with and are payable, without preference of priority, from the same fund as [~~without preference or priority of~~] the bonds first issued. In addition, the commission may issue bonds for a turnpike project secured by a lien on the revenue of the turnpike project subordinate to the lien on the revenue securing other bonds issued for the turnpike project.

(f) If the proceeds of a bond issue exceed the cost of the turnpike project for which the bonds were issued, the surplus shall be segregated from the other money of the commission and used only for the purposes specified in the order authorizing the issuance ~~[deposited to the credit of the sinking fund for the bonds].~~

(g) In addition to other permitted uses, the proceeds of a bond issue may be used to pay costs incurred before the issuance of the bonds, including costs of environmental review, design, planning, acquisition of property, relocation assistance, construction, and operation.

(h) Bonds issued and delivered under this chapter and interest coupons on the bonds are a security under Chapter 8, Business & Commerce Code.

(i) Bonds issued under this chapter and income from the bonds, including any profit made on the sale or transfer of the bonds, are exempt from taxation in this state.

SECTION __.23. Section 361.172, Transportation Code, is amended to read as follows:

Sec. 361.172. APPLICABILITY OF OTHER LAW; CONFLICTS ~~[LAWS].~~
~~[(a) Except as provided by Subsection (b), the authority may issue turnpike revenue bonds or turnpike revenue refunding bonds under this chapter without complying with any other law applicable to the issuance of bonds.]~~

All [(b) Notwithstanding any other provisions of this chapter, the following] laws affecting the issuance of bonds by governmental entities, including Chapters 1201, 1202, 1204, 1207, and 1371, Government Code, apply to bonds issued under this chapter. To the extent of a conflict between those laws and this chapter, the provisions of this chapter prevail [by the authority].

~~[(1) Chapters 1201, 1202, 1204, and 1371, Government Code; and]~~

~~[(2) Subchapters A-C, Chapter 1207, Government Code].~~

SECTION __.24. Section 361.173, Transportation Code, is amended to read as follows:

Sec. 361.173. PAYMENT OF BONDS; CREDIT OF STATE NOT PLEDGED.

(a) The principal of, interest on, and any redemption premium on bonds issued by the commission under this chapter ~~[authority]~~ are payable solely from:

(1) ~~[the money authorized for their payment under this chapter or other law; and]~~

~~[(2)]~~ the revenue of the turnpike project for which the bonds were issued, including tolls pledged to pay the bonds; and~~[-]~~

(2) amounts received under a credit agreement relating to the turnpike project for which the bonds are issued.

(b) Bonds issued under this chapter do not constitute a debt of the state or a pledge of the faith and credit of the state. Each bond must contain on its face a statement to the effect that:

(1) the state, the commission, and the department ~~[authority]~~ are not obligated to pay the bond or the interest on the bond from a source other than the amount pledged to pay the bond and the interest on the bond; and

(2) the faith and credit and the taxing power of the state are not pledged to the payment of the principal of or interest on the bond.

(c) The commission and the department ~~[authority]~~ may not incur financial obligations that cannot be paid from tolls or revenue derived from owning or operating turnpike projects or from money provided by law.

SECTION __.25. Section 361.174, Transportation Code, is amended to read as follows:

Sec. 361.174. SOURCES OF PAYMENT OF AND SECURITY FOR TURNPIKE PROJECT BONDS. Notwithstanding any other provisions of this chapter, turnpike project bonds issued by the commission ~~[authority]~~ may[=

~~(1)] be payable from and secured by payments made under an agreement with a local governmental entity as provided by Subchapter A, Chapter 362, and may state on their faces any pledge of revenue or taxes and any security for the bonds under the agreement[; and~~

~~(2) be payable from and secured by money derived from any other source available to the authority, other than money derived from a different turnpike project].~~

SECTION __.26. Section 361.175, Transportation Code, is amended to read as follows:

Sec. 361.175. TURNPIKE REVENUE REFUNDING BONDS. (a) The commission ~~[authority]~~ by order ~~[resolution]~~ may provide for the issuance of turnpike revenue refunding bonds to:

(1) refund any outstanding bonds issued under this chapter for a turnpike project, including the payment of any redemption premium on the bonds and any interest accrued as of the date of redemption of the bonds; and

(2) construct improvements, extensions, or enlargements to the turnpike project for which the outstanding bonds were issued.

(b) This chapter, to the extent applicable, governs:

(1) the issuance of the refunding bonds;

(2) the maturities and other details of the bonds;

(3) the rights of the bondholders; and

(4) the rights and obligations of the commission and the department ~~[authority]~~ with respect to the bonds and the bondholders.

(c) The commission ~~[authority]~~ may:

(1) issue refunding bonds in exchange for outstanding bonds; or

(2) sell refunding bonds and use the proceeds to pay or provide for the payment of the outstanding bonds.

SECTION __.27. Subchapter E, Chapter 361, Transportation Code, is amended by adding Sections 361.1751-361.1753 to read as follows:

Sec. 361.1751. INTERIM BONDS. (a) The commission may, before issuing definitive bonds, issue interim bonds, with or without coupons, exchangeable for definitive bonds.

(b) An order authorizing interim bonds may provide that the interim bonds recite that the bonds are issued under this chapter. The recital is conclusive evidence of the validity and the regularity of the bonds' issuance.

Sec. 361.1752. EFFECT OF LIEN. (a) A lien on or a pledge of revenue from a turnpike project or on a reserve, replacement, or other fund established in connection with a bond issued under this chapter:

(1) is enforceable at the time of payment for and delivery of the bond;

(2) applies to each item on hand or subsequently received;
(3) applies without physical delivery of an item or other act; and
(4) is enforceable against any person having a claim, in tort, contract, or other remedy, against the commission or the department without regard to whether the person has notice of the lien or pledge.

(b) An order authorizing the issuance of bonds is not required to be recorded except in the regular records of the department.

Sec. 361.1753. APPROVAL OF BONDS BY ATTORNEY GENERAL. (a) The commission shall submit to the attorney general for examination the record of proceedings relating to bonds authorized under this chapter. The record shall include the bond proceedings and any contract securing or providing revenue for the payment of the bonds.

(b) If the attorney general determines that the bonds, the bond proceedings, and any supporting contract are authorized by law, the attorney general shall approve the bonds and deliver to the comptroller:

(1) a copy of the legal opinion of the attorney general stating the approval;
and

(2) the record of proceedings relating to the authorization of the bonds.

(c) On receipt of the legal opinion of the attorney general and the record of proceedings relating to the authorization of the bonds, the comptroller shall register the record of proceedings.

(d) After approval by the attorney general, the bonds, the bond proceedings, and any supporting contract are valid, enforceable, and incontestable in any court or other forum for any reason and are binding obligations according to their terms for all purposes.

SECTION __.28. Sections 361.176(a) and (e), Transportation Code, are amended to read as follows:

(a) Bonds issued under this chapter may be secured by a trust agreement between the commission [~~authority~~] and a corporate trustee that is a trust company or a bank that has the powers of a trust company.

(e) A trust agreement may:

(1) set forth the rights and remedies of the bondholders and the trustee;

(2) restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing corporate bonds and debentures; and

(3) contain provisions the commission [~~authority~~] determines reasonable and proper for the security of the bondholders.

SECTION __.29. Section 361.177, Transportation Code, is amended to read as follows:

Sec. 361.177. PROVISIONS PROTECTING AND ENFORCING RIGHTS AND REMEDIES OF BONDHOLDERS. A trust agreement or order [~~resolution~~] providing for the issuance of bonds may contain [~~reasonable~~] provisions to protect and enforce the rights and remedies of the bondholders, including:

(1) covenants establishing the commission's [~~stating the~~] duties relating [~~of the authority in relation~~] to:

(A) the acquisition of property; [~~and~~]

(B) the construction, improvement, expansion, maintenance, repair, operation, and insurance of the turnpike project in connection with which the bonds were authorized; and

(C) ~~[(B)]~~ the custody, safeguarding, and application of money; ~~[and]~~

(2) covenants prescribing events that constitute default;

(3) covenants prescribing terms on which any or all of the bonds become or may be declared due before maturity;

(4) covenants relating to the rights, powers, liabilities, or duties that arise on the breach of a duty of the commission; and

(5) ~~[(2)]~~ provisions for the employment of consulting engineers in connection with the construction or operation of the turnpike project.

SECTION __.30. Section 361.178, Transportation Code, is amended to read as follows:

Sec. 361.178. FURNISHING OF INDEMNIFYING BONDS OR PLEDGE OF SECURITIES. A bank or trust company incorporated under the laws of ~~[that has its main office or a branch office in]~~ this state and that acts as depository of the proceeds of bonds or of revenue may furnish indemnifying bonds or pledge securities that the department ~~[authority]~~ requires.

SECTION __.31. Sections 361.179(a), (b), (d), (e), and (g), Transportation Code, are amended to read as follows:

(a) The department ~~[authority]~~ may:

(1) impose tolls for the use of each turnpike project and the different parts or sections of each turnpike project; and

(2) notwithstanding anything in Chapter 202 to the contrary, contract with a person for the use of part of a turnpike project or lease ~~[or sell]~~ part of a turnpike project~~[-, including the right of way adjoining the paved portion,]~~ for ~~[any purpose, including placing on the adjoining right of way]~~ a gas station, garage, store, hotel, restaurant, railroad tracks, utilities, and ~~[telephone line, telecommunication line,]~~ telecommunications facilities and equipment~~[-, and electric line,]~~ and set the terms for the use or~~[-]~~ lease~~[-, or sale]~~.

(b) The tolls shall be set so that the aggregate of tolls from the turnpike project:

(1) provides a fund sufficient with other revenue and contributions, if any, to pay:

(A) the cost of maintaining, repairing, and operating the project; and

(B) the principal of and interest on the bonds issued for the project as those bonds become due and payable; and

(2) creates reserves for the purposes listed under Subdivision (1).

(d) The tolls and other revenue derived from the turnpike project for which bonds were issued, except the part necessary to pay the cost of maintenance, repair, and operation and to provide reserves for those costs as may be provided in the order ~~[resolution]~~ authorizing the issuance of the bonds or in the trust agreement securing the bonds, shall be set aside at regular intervals as may be provided in the order ~~[resolution]~~ or trust agreement in a sinking fund that is pledged to and charged with the payment of:

(1) interest on the bonds as it becomes due;

(2) principal of the bonds as it becomes due;

- (3) necessary charges of paying agents for paying principal and interest; and
- (4) the redemption price or the purchase price of bonds retired by call or

purchase as provided by the bonds.

(e) Use and disposition of money to the credit of the sinking fund are subject to the order [resolution] authorizing the issuance of the bonds or to the trust agreement.

(g) Money in the sinking fund, less the reserve provided by the order [resolution] or trust agreement, if not used within a reasonable time to purchase bonds for cancellation, shall be applied to the redemption of bonds at the applicable redemption price.

SECTION __.32. Section 361.183(b), Transportation Code, is amended to read as follows:

(b) Money spent under Subsection (a) for a proposed turnpike is reimbursable, with the consent of the commission [authority], to the person paying the expenses out of the proceeds from turnpike revenue bonds issued for or other proceeds that may be used for the construction, improvement, extension, expansion, or operation of the project.

SECTION __.33. Section 361.185, Transportation Code, is amended to read as follows:

Sec. 361.185. TRUST FUND. (a) All money received under this chapter, whether as proceeds from the sale of bonds or as revenue, is a trust fund to be held and applied as provided by this chapter. Notwithstanding any other law, including Section 9, Chapter 1123, Acts of the 75th Legislature, Regular Session, 1997, and without the prior approval of the comptroller, funds held under this chapter shall be held in trust by a banking institution chosen by the department [authority] or, at the discretion of the department [authority], in trust in the state treasury outside the general revenue fund.

(b) The order [resolution] authorizing the issuance of bonds or the trust agreement securing the bonds shall provide that an officer to whom or a bank or trust company to which the money is paid shall act as trustee of the money and shall hold and apply the money for the purpose of the order [resolution] or trust agreement, subject to this chapter and the order [resolution] or trust agreement.

SECTION __.34. Section 361.186, Transportation Code, is amended to read as follows:

Sec. 361.186. REMEDIES. Except to the extent restricted by a trust agreement, a holder of a bond issued under this chapter [~~or of a coupon incident to a bond~~] and a trustee under a trust agreement may:

- (1) protect and enforce by a legal proceeding a right under:

- (A) this chapter or another law of this state;

- (B) the trust agreement; or

- (C) the order [resolution] authorizing the issuance of the bond; and

(2) compel the performance of a duty this chapter, the trust agreement, or the order [resolution] requires the commission or the department [authority] or an officer of the commission or the department [authority] to perform, including the imposing of tolls.

SECTION __.35. Section 361.187(a), Transportation Code, is amended to read as follows:

(a) The commission [~~authority~~] is exempt from taxation of or assessments on:

(1) a turnpike project;

(2) property the department [~~authority~~] acquires or uses under this chapter;

or

(3) income from property described by Subdivision (1) or (2).

SECTION __.36. Section 361.188, Transportation Code, is amended to read as follows:

Sec. 361.188. VALUATION OF BONDS SECURING DEPOSIT OF PUBLIC FUNDS. Bonds of the commission [~~authority, when they are accompanied by the unmatured coupons incident to the bonds,~~] may secure the deposit of public funds of the state or a political subdivision of the state to the extent of the lesser of the face value of the bonds or their market value.

SECTION __.37. Section 361.189, Transportation Code, is amended to read as follows:

Sec. 361.189. USE OF SURPLUS REVENUE. The commission by order [~~resolution~~] may authorize the use of surplus revenue of a turnpike project to pay the costs of another turnpike project within the region [~~other than a project financed under Subchapter I, or a toll free project~~]. The commission may in the order [~~resolution~~] prescribe terms for the use of the revenue, including the pledge of the revenue, but may not take an action under this section that violates, impairs, or is inconsistent with a bond order [~~resolution~~], trust agreement, or indenture governing the use of the surplus revenue.

SECTION __.38. Section 361.191, Transportation Code, is amended to read as follows:

Sec. 361.191. EXPENDITURE OF MONEY AUTHORIZED BY COMMISSION [~~DEPARTMENT OF TRANSPORTATION~~]. (a) The commission [~~Texas Department of Transportation~~] may provide for the expenditure of money for the cost of the acquisition, construction, maintenance, or operation of a turnpike project [~~by the authority~~]. The commission [~~department~~] may require the repayment of [~~authority to repay~~] money provided under this section from toll revenue or other sources on terms established by the commission.

(b) Money repaid as required by the commission [~~department~~] shall be deposited to the credit of the fund from which the money was provided. Money deposited as required by this section is exempt from the application of Section 403.095, Government Code.

SECTION __.39. Section 361.231(a), Transportation Code, is amended to read as follows:

[(a)] A contract of the department [~~authority~~] for the construction, improvement, repair, or maintenance of a turnpike project shall [~~to the extent applicable,~~] be awarded under the same terms as a contract of the department under Sections 223.001-223.007, [~~223.009,~~] and 223.009-223.011 [~~223.010~~].

SECTION __.40. Sections 361.232(b), (c), and (d), Transportation Code, are amended to read as follows:

(b) The department [~~authority~~] may construct a grade separation at an intersection of a turnpike project with a railroad or highway and change the line or grade of a highway to accommodate it to the design of a grade separation. The

department [~~authority~~] shall pay the cost of a grade separation and any damage incurred in changing a line or grade of a railroad or highway as part of the cost of the turnpike project.

(c) If feasible, the department [~~authority~~] shall provide access to properties previously abutting a county or other public road that is taken for a turnpike project and shall pay abutting property owners the expenses or any resulting damages for denial of access to the road.

(d) If the department [~~authority~~] finds it necessary to change the location of a portion of a highway, it shall reconstruct the highway at the location the [~~authority and the~~] department determines [~~determine~~] to be most favorable. The reconstructed highway must be of substantially the same type and in as good condition as the original highway. The department [~~authority~~] shall determine and pay the cost of the reconstruction and any damage incurred in changing the location of a highway as part of the cost of the turnpike project.

SECTION __.41. Sections 361.233(a) and (c), Transportation Code, are amended to read as follows:

(a) The department [~~authority~~] and its authorized agents may enter any real property, water, or premises in this state to make a survey, sounding, drilling, or examination it determines necessary or appropriate for the purposes of this chapter.

(c) The department [~~authority~~] shall make reimbursement for any actual damages to real property, water, or premises that result from an activity described by Subsection (a).

SECTION __.42. Sections 361.234(a), (b), (d), (e), (f), and (g), Transportation Code, are amended to read as follows:

(a) The commission [~~authority~~] may adopt rules for the installation, construction, maintenance, repair, renewal, relocation, and removal of a public utility facility in, on, along, over, or under a turnpike project.

(b) If the department [~~authority~~] determines it is necessary that a public utility facility located in, on, along, over, or under a turnpike project be relocated in the project, removed from the project, or carried along or across the turnpike by grade separation, the owner or operator of the facility shall relocate or remove the facility in accordance with the order of the department [~~authority~~]. The department [~~authority~~], as a part of the cost of the turnpike project or the cost of operating the project, shall pay the cost of the relocation, removal, or grade separation, including the cost of:

- (1) installing the facility in a new location or locations;
- (2) interests in real property, and other rights acquired to accomplish the relocation or removal; and
- (3) maintenance of grade separation structures.

(d) The department [~~authority~~] and the public utility shall have 90 days from the date the department [~~authority~~] provides written notice to the public utility of the need for relocation of utility facilities to reach an agreement concerning the period for completion of the relocation. The 90-day period may be extended by mutual written agreement. If the parties are unable to reach an agreement for the period for completion of the relocation, the department [~~authority~~] may specify a reasonable period. The department [~~authority~~] may reduce the total costs to be paid by the department [~~authority~~] by 10 percent for each 30-day period or portion of a 30-day

period that the relocation exceeds the period specified by agreement between the department [authority] and public utility or as reasonably specified by the department [authority] if no agreement is reached, unless the public utility's failure to timely perform results from a material action or inaction by the department [authority] or from conditions that were beyond the reasonable control of the utility. If an owner or operator of a public utility facility does not timely remove or relocate the facility as required under Subsection (b) and the department [authority] relocates the facility, the department [authority] shall relocate the facility in a safe manner that complies with applicable law and utility construction standards recognized by the department [authority] and that minimizes disruption of utility service and shall notify the public utility and other appropriate regulatory agencies of the relocation. A public utility shall reimburse the department [authority] for expenses reasonably incurred for the relocation of a public utility facility unless the failure of the public utility to timely relocate the facility was the result of circumstances beyond the control of the utility, in which case the department [authority] shall pay the cost of the relocation.

(e) Notwithstanding anything in this chapter to the contrary, [:

~~(1)~~ Subchapter B, Chapter 181, Utilities Code, applies to the laying and maintenance of pipes, mains, conductors, and other facilities used for conducting gas by a gas utility described in that subchapter through, under, along, across, and over a turnpike project constructed by the department [authority]; and

~~(2) the authority has the powers and duties assigned to the commission by Subchapter B, Chapter 181, Utilities Code].~~

(f) Notwithstanding anything in this chapter to the contrary, Subchapter C, Chapter 181, Utilities Code, applies to the erection, construction, maintenance, and operation of lines and poles owned by an electric utility, as that term is defined by Section 181.041, Utilities Code, over, under, across, on, and along a turnpike project constructed by the department [authority]. The authority has the powers and duties delegated to the commission by Subchapter C, Chapter 181, Utilities Code].

(g) Notwithstanding anything in this chapter to the contrary, the laws of this state applicable to the use of public roads, streets, and waters of this state by a telephone and telegraph corporation apply to the erection, construction, maintenance, location, and operation of a line, pole, or other fixture by a telephone and telegraph corporation over, under, across, on, and along a turnpike project constructed by the department [authority].

SECTION __.43. Section 361.235(a), Transportation Code, is amended to read as follows:

(a) The department [authority] may use real property owned by the state, including submerged land, that the department [authority] considers necessary for the construction or operation of a turnpike project.

SECTION __.44. Section 361.236, Transportation Code, is amended to read as follows:

Sec. 361.236. MAINTENANCE OF TURNPIKE PROJECT. The department [authority] shall maintain and keep in good condition and repair each turnpike project opened to traffic.

SECTION __.45. Section 361.238(b) and (c), Transportation Code, are amended to read as follows:

(b) If the conditions of Subsections (a)(1) and (2) are met, the commission may continue to charge a toll to fund the construction, maintenance, and operation of other turnpike projects in the region in which the turnpike project is located ~~pay the costs of maintaining the facility~~ [sufficient to].

(c) The following entities shall consider offering motor vehicle operators the option of using a transponder to pay tolls without stopping, to mitigate congestion at toll locations, to enhance traffic flow, and to otherwise increase the efficiency of operations:

(1) the department ~~[authority]~~;

(2) an entity to which a project authorized by this chapter is transferred; or

(3) a third party service provider under contract with an entity described by Subdivision (1) or (2).

SECTION __.46. Section 361.251, Transportation Code, is amended to read as follows:

Sec. 361.251. TURNPIKE PROJECT A STATE ~~[PUBLIC]~~ HIGHWAY. A turnpike project is a state highway subject to all laws applicable to the regulation and control of traffic on a state ~~[public]~~ highway.

SECTION __.47. Section 361.253, Transportation Code, is amended by amending Subsections (b), (d), (e), and (g) and adding Subsection (i) to read as follows:

(b) The department ~~[authority]~~ may impose and collect the administrative fee, so as to recover the cost of collecting the unpaid toll, not to exceed \$100. The department ~~[authority]~~ shall send a written notice of nonpayment to the registered owner of the vehicle at that owner's address as shown in the vehicle registration records of the department by first class mail not later than the 30th day after the date of the alleged failure to pay and may require payment not sooner than the 30th day the date the notice was mailed. The registered owner shall pay a separate toll and administrative fee for each event of nonpayment under Section 361.252.

(d) It is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle is a lessor of the vehicle and not later than the 30th day after the date the notice of nonpayment is mailed provides to the department ~~[authority]~~ a copy of the rental, lease, or other contract document covering the vehicle on the date of the nonpayment under Section 361.252, with the name and address of the lessee clearly legible. If the lessor provides the required information within the period prescribed, the department ~~[authority]~~ may send a notice of nonpayment to the lessee at the address shown on the contract document by first class mail before the 30th day after the date of receipt of the required information from the lessor. The lessee of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment commits an offense. The lessee shall pay a separate toll and administrative fee for each event of nonpayment. Each failure to pay a toll or administrative fee under this subsection is a separate offense.

(e) It is an exception to the application of Subsection (a) or (c) if the registered owner of the vehicle transferred ownership of the vehicle to another person before the event of nonpayment under Section 361.252 occurred, submitted written notice of the

transfer to the department in accordance with Section 520.023, and, before the 30th day after the date the notice of nonpayment is mailed, provides to the department [authority] the name and address of the person to whom the vehicle was transferred. If the former owner of the vehicle provides the required information within the period prescribed, the department [authority] may send a notice of nonpayment to the person to whom ownership of the vehicle was transferred at the address provided the former owner by first class mail before the 30th day after the date of receipt of the required information from the former owner. The subsequent owner of the vehicle for which the proper toll was not paid who is mailed a written notice of nonpayment under this subsection and fails to pay the proper toll and administrative fee within the time specified by the notice of nonpayment commits an offense. The subsequent owner shall pay a separate toll and administrative fee for each event of nonpayment under Section 361.252. Each failure to pay a toll or administrative fee under this subsection is a separate offense.

(g) The court in which a person is convicted of an offense under this section shall also collect the proper toll and administrative fee and forward the toll and fee to the department for deposit in the depository bank used for that purpose [authority].

(i) The department may contract, in accordance with Section 2107.003, Government Code, with a person to collect the unpaid toll and administrative fee before referring the matter to a court with jurisdiction over the offense.

SECTION __.48. Section 361.255(b), Transportation Code, is amended to read as follows:

(b) Any peace officer of this state may seize a stolen or insufficiently funded transponder and return it to the department [authority], except that an insufficiently funded transponder may not be seized sooner than the 30th day after the date the department [authority] has sent a notice of delinquency to the holder of the account.

SECTION __.49. Sections 361.256(a), (b), and (d), Transportation Code, are amended to read as follows:

(a) To aid in the collection of tolls and in the enforcement of toll violations, the department [authority] may use automated enforcement technology that it determines is necessary, including automatic vehicle license plate identification photography and video surveillance, by electronic imaging or photographic copying.

(b) Automated enforcement technology approved by the department [authority] under Subsection (a) may be used only for the purpose of producing, depicting, photographing, or recording an image of a license plate attached to the front or rear of a vehicle.

(d) Evidence obtained from technology approved by the department [authority] under Subsection (a) may not be used in the prosecution of an offense other than under Section 361.252 or 361.253.

SECTION __.50. The heading to Subchapter H, Chapter 361, Transportation Code, is amended to read as follows:

SUBCHAPTER H. TRANSFER OF TURNPIKE PROJECT [~~TO COUNTY,~~
~~[MUNICIPALITY, REGIONAL TOLLWAY AUTHORITY,~~
~~[OR LOCAL GOVERNMENT CORPORATION.]~~

SECTION __.51. Section 361.281, Transportation Code, is amended to read as follows:

Sec. 361.281. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to:

- (1) a county with a population of more than 1.5 million;
- (2) a local government corporation serving a county with a population of more than 1.5 million;
- (3) an adjacent county in a joint turnpike authority with a county with a population of more than 1.5 million;
- (4) a municipality with a population of more than 170,000 that is adjacent to the United Mexican States; ~~or~~
- (5) a regional tollway authority created under Chapter 366; or
- (6) a regional mobility authority created under Section 361.003.

SECTION __.52. Section 361.282, Transportation Code, is amended to read as follows:

Sec. 361.282. LEASE, SALE, OR CONVEYANCE OF TURNPIKE PROJECT.

(a) The department ~~[authority]~~ may lease, sell, or convey in another manner a turnpike project to a county, a municipality, regional tollway authority, regional mobility authority, or a local government corporation created under Chapter 431.

(b) The ~~[authority, the]~~ commission^[s] and the governor must approve the transfer of the turnpike project as being in the best interests of the state and the entity receiving the turnpike project.

SECTION __.53. Section 361.283, Transportation Code, is amended to read as follows:

Sec. 361.283. DISCHARGE OF ~~[AUTHORITY'S]~~ OUTSTANDING BONDED INDEBTEDNESS. An agreement to lease, sell, or convey a turnpike project under Section 361.282 must provide for the discharge and final payment or redemption of the department ~~[authority's]~~ outstanding bonded indebtedness for the project.

SECTION __.54. Subchapter H, Chapter 361, Transportation Code, is amended by adding Section 361.284 to read as follows:

Sec. 361.284. REPAYMENT OF DEPARTMENT'S EXPENDITURES. (a) Except as provided by Subsection (b), an agreement to lease, sell, or convey a turnpike project under Section 361.282 must provide for the repayment of any expenditures of the department for the design, construction, operation, and maintenance of the project that have not been reimbursed with the proceeds of bonds issued for the project.

(b) The commission may waive repayment of all or a portion of the expenditures if it finds that the transfer will result in substantial net benefits to the state, the department, and the public that equal or exceed the amount of repayment waived.

SECTION __.55. Section 361.285(a), Transportation Code, is amended to read as follows:

(a) An agreement for the lease, sale, or conveyance of a turnpike project under this subchapter shall be submitted to the attorney general for approval as part of the records of proceedings relating to the issuance of bonds of the county, municipality, regional tollway authority, regional mobility authority, or local government corporation.

SECTION __.56. Section 361.301, Transportation Code, is amended to read as follows:

Sec. 361.301. AGREEMENTS WITH PUBLIC OR PRIVATE ENTITIES TO CONSTRUCT, MAINTAIN, REPAIR, AND OPERATE TURNPIKE PROJECTS. (a) Notwithstanding Section 361.231 and Subchapter A, Chapter 2254, Government Code, the department [The authority] may enter into an agreement with a public or private entity, including a toll road corporation, to permit the entity, independently or jointly with the department [authority], to construct, maintain, repair, and operate turnpike projects.

(b) The department [authority] may authorize the investment of public and private money, including debt and equity participation, to finance a function described by this section.

SECTION __.57. Section 361.302, Transportation Code, is amended to read as follows:

Sec. 361.302. COMPREHENSIVE [EXCLUSIVE] DEVELOPMENT AGREEMENTS [WITH PUBLIC OR PRIVATE ENTITIES]. (a) Subject to Section 361.3021, the department [The authority] may enter into a comprehensive [use an exclusive] development agreement with a private entity to construct, maintain, repair, operate, extend, or expand a turnpike project.

(b) In this subchapter, "comprehensive development agreement" means an agreement with a private entity that, at a minimum, provides for the design and construction of a turnpike project and may also provide for the financing, acquisition, maintenance, or operation of a turnpike project [by invested private funding or by public and private funding].

(c) The department [authority:]

[(1) has broad discretion to negotiate the terms of financing; and]

[(2)] may negotiate provisions relating to professional and consulting services provided in connection with a comprehensive development agreement [regard to the turnpike project and to the construction, maintenance, and operation of the project, including provisions for combining those services].

(d) The authority to enter into comprehensive development agreements provided by this section expires on August 31, 2011.

SECTION __.58. Subchapter I, Chapter 361, Transportation Code, is amended by adding Sections 361.3021-361.3024 to read as follows:

Sec. 361.3021. LIMITATION ON DEPARTMENT FINANCIAL PARTICIPATION. The amount of money disbursed by the department from the state highway fund and the Texas mobility fund during a federal fiscal year to pay the costs under comprehensive development agreements may not exceed 40 percent of the obligation authority under the federal-aid highway program that is distributed to this state for the fiscal year.

Sec. 361.3022. PROCESS FOR ENTERING INTO COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) If the department enters into a comprehensive development agreement, the department shall use a competitive procurement process that provides the best value for the department. The department may accept unsolicited proposals for a proposed project or solicit proposals in accordance with this section.

(b) The department shall establish rules and procedures for accepting unsolicited proposals that require the private entity to include in the proposal:

(1) information regarding the proposed project location, scope, and limits;
(2) information regarding the private entity's qualifications, experience, technical competence, and capability to develop the project; and

(3) a proposed financial plan for the proposed project that includes, at a minimum:

(A) projected project costs; and

(B) proposed sources of funds.

(c) The department shall publish a request for competing proposals and qualifications in the Texas Register that includes the criteria used to evaluate the proposals, the relative weight given to the criteria, and a deadline by which proposals must be received if:

(1) the department decides to issue a request for qualifications for a proposed project; or

(2) the department authorizes the further evaluation of an unsolicited proposal.

(d) A proposal submitted in response to a request published under Subsection (c) must contain, at a minimum, the information required by Subsections (b)(2) and (3).

(e) The department may interview a private entity submitting an unsolicited proposal or responding to a request under Subsection (c). The department shall evaluate each proposal based on the criteria described in the notice. The department must qualify at least two private entities to submit detailed proposals for a project under Subsection (f) unless the department does not receive more than one proposal or one response to a request under Subsection (c).

(f) The department shall issue a request for detailed proposals from all private entities qualified under Subsection (e) if the department proceeds with the further evaluation of a proposed project. A request under this subsection may require additional information relating to:

(1) the private entity's qualifications and demonstrated technical competence;

(2) the feasibility of developing the project as proposed;

(3) detailed engineering or architectural designs;

(4) the private entity's ability to meet schedules;

(5) costing methodology; or

(6) any other information the department considers relevant or necessary.

(g) In issuing a request for proposals under Subsection (f), the department may solicit input from entities qualified under Subsection (e) or any other person. The department may also solicit input regarding alternative technical concepts after issuing a request under Subsection (f).

(h) The department shall rank each proposal based on the criteria described in the request for proposals and select the private entity whose proposal offers the apparent best value to the department.

(i) The department may enter into discussions with the private entity whose proposal offers the apparent best value. The discussions shall be limited to:

(1) incorporation of aspects of other proposals for the purpose of achieving the overall best value for the department;

(2) clarifications and minor adjustments in scheduling, cash flow, and similar items; and

(3) matters that have arisen since the submission of the proposal.

(j) If at any point in discussions under Subsection (i), it appears to the department that the highest ranking proposal will not provide the department with the overall best value, the department may enter into discussions with the private entity submitting the next-highest ranking proposal.

(k) The department may withdraw a request for competing proposals and qualifications or a request for detailed proposals at any time. The department may then publish a new request for competing proposals and qualifications.

(l) The department may require that an unsolicited proposal be accompanied by a nonrefundable fee sufficient to cover all or part of its cost to review the proposal.

(m) The department may pay an unsuccessful private entity that submits a response to a request for detailed proposals under Subsection (f) a stipulated amount of the final contract price for any costs incurred in preparing that proposal. The stipulated amount must be stated in the request for proposals and may not exceed the value of any work product contained in the proposal that can, as determined by the department, be used by the department in the performance of its functions. The use by the department of any design element contained in an unsuccessful proposal is at the sole risk and discretion of the department and does not confer liability on the recipient of the stipulated amount under this section. After payment of the stipulated amount:

(1) the department owns the exclusive rights to, and may make use of any work product contained in, the proposal, including the technologies, techniques, methods, processes, and information contained in the project design; and

(2) the work product contained in the proposal becomes the property of the department.

(n) The department may prescribe the general form of a comprehensive development agreement and may include any matter the department considers advantageous to the department. The department and the private entity shall finalize the specific terms of a comprehensive development agreement.

(o) Subchapter A, Chapter 223, and Chapter 2254, Government Code, do not apply to a comprehensive development agreement entered into under Section 361.302.

Sec. 361.3023. CONFIDENTIALITY OF INFORMATION RELATING TO COMPREHENSIVE DEVELOPMENT AGREEMENTS. (a) To encourage private entities to submit proposals under Section 361.3022, the following information is confidential, is not subject to disclosure, inspection, or copying under Chapter 552, Government Code, and is not subject to disclosure, discovery, subpoena, or other means of legal compulsion for its release until a final contract for a proposed project is entered into:

(1) all or part of a proposal that is submitted by a private entity for a comprehensive development agreement, except information provided under Section 361.3022(b)(1) and (2);

(2) supplemental information or material submitted by a private entity in connection with a proposal for a comprehensive development agreement; and

(3) information created or collected by the department or its agent during consideration of a proposal for a comprehensive development agreement.

(b) After the department completes its final ranking of proposals under Section 361.3022(h), the final rankings of each proposal under each of the published criteria are not confidential.

Sec. 361.3024. PERFORMANCE AND PAYMENT SECURITY. (a) Notwithstanding Section 223.006 and the requirements of Subchapter B, Chapter 2253, Government Code, the department shall require a private entity entering into a comprehensive development agreement under Section 361.302 to provide a performance and payment bond or an alternative form of security in an amount sufficient to:

(1) ensure the proper performance of the agreement; and

(2) protect:

(A) the department; and

(B) payment bond beneficiaries who have a direct contractual relationship with the private entity or a subcontractor of the private entity to supply labor or material.

(b) A performance and payment bond or alternative form of security shall be in an amount equal to the cost of constructing or maintaining the project.

(c) If the department determines that it is impracticable for a private entity to provide security in the amount described by Subsection (b), the department shall set the amount of the bonds or the alternative forms of security.

(d) A payment or performance bond or alternative form of security is not required for the portion of an agreement that includes only design or planning services, the performance of preliminary studies, or the acquisition of real property.

(e) The amount of the payment security must not be less than the amount of the performance security.

(f) In addition to performance and payment bonds, the department may require the following alternate forms of security:

(1) a cashier's check drawn on a financial entity specified by the department;

(2) a United States bond or note;

(3) an irrevocable bank letter of credit; or

(4) any other form of security determined suitable by the department.

(g) The department by rule shall prescribe requirements for alternate forms of security provided under this section.

SECTION __.59. Section 361.303, Transportation Code, is amended to read as follows:

Sec. 361.303. OWNERSHIP OF TURNPIKE PROJECT. (a) A turnpike project that is the subject of a comprehensive development agreement with a private entity, including the facilities acquired or constructed on the project, is public property and belongs to the department [~~authority~~].

(b) Notwithstanding Subsection (a), the department [~~authority~~] may enter into an agreement that provides for the lease of rights-of-way, the granting of easements, the issuance of franchises, licenses, or permits, or any lawful uses to enable a private entity to construct, operate, and maintain a turnpike project, including supplemental facilities. At the termination of the agreement, the turnpike project, including the facilities, is to be in a state of proper maintenance as determined by the department [~~authority~~] and shall be returned to the department [~~authority~~] in satisfactory condition at no further cost.

SECTION __.60. Section 361.304, Transportation Code, is amended to read as follows:

Sec. 361.304. LIABILITY FOR PRIVATE OBLIGATIONS. The department [~~authority~~] may not incur a financial obligation for a private entity that constructs, maintains, or operates a turnpike project. The state[~~, the authority,~~] or a political subdivision of the state is not liable for any financial or other obligations of a turnpike project solely because a private entity constructs, finances, or operates any part of the project.

SECTION __.61. Section 361.305, Transportation Code, is amended to read as follows:

Sec. 361.305. TERMS OF PRIVATE PARTICIPATION. (a) The department [~~authority~~] shall negotiate the terms of private participation in a turnpike project, including:

- (1) methods to determine the applicable cost, profit, and project distribution between the private equity investors and the department [~~authority~~];
- (2) reasonable methods to determine and classify toll rates;
- (3) acceptable safety and policing standards; and
- (4) other applicable professional, consulting, construction, operation, and maintenance standards, expenses, and costs.

(b) A comprehensive development agreement entered into under Section 361.302 must include a provision authorizing the department to purchase, under terms and conditions agreed to by the parties, the interest of a private equity investor in a turnpike agreement.

(c) The department may only enter into a comprehensive development agreement under Section 361.302 with a private equity investor if the project is identified in the department's unified transportation program or is located on a transportation corridor identified in the statewide transportation plan.

SECTION __.62. Section 361.306, Transportation Code, is amended to read as follows:

Sec. 361.306. RULES, PROCEDURES, AND GUIDELINES GOVERNING SELECTION AND NEGOTIATING PROCESS. (a) The commission [~~authority~~] shall adopt rules, procedures, and guidelines governing selection and negotiations to promote fairness, obtain private participants in turnpike projects, and promote confidence among those participants. The rules must contain criteria relating to the qualifications of the participants and the award of the contracts [~~and may authorize the authority to impose a fee for reviewing proposals for private involvement in a turnpike project~~].

(b) The department ~~[authority]~~ shall have up-to-date procedures for participation in negotiations on turnpike projects.

(c) The department ~~[authority]~~ has exclusive judgment to determine the terms of an agreement.

(d) The department ~~[authority]~~ shall include the attorney general or the attorney general's designated representative in a negotiation with a private participant.

SECTION __.63. Section 361.307, Transportation Code, is amended to read as follows:

Sec. 361.307. AGREEMENTS WITH PRIVATE ENTITIES AND OTHER GOVERNMENTAL AGENCIES. (a) The department ~~[authority]~~ and a private entity jointly may enter into an agreement with another governmental agency or entity, including a federal agency, an agency of this or another state, including the United Mexican States or a state of the United Mexican States, or a political subdivision, to independently or jointly provide services, to study the feasibility of a turnpike project, or to finance, construct, operate, and maintain a turnpike project.

(b) The department may not enter into an agreement with the United Mexican States or a state of the United Mexican States without the approval of the governor.

SECTION __.64. Section 361.331(a), Transportation Code, is amended to read as follows:

(a) After the department ~~[authority]~~ conducts a public hearing in each affected county, ~~[and with the approval of]~~ the commission~~[-the authority]~~ may designate as a pooled turnpike project two or more turnpike projects that are wholly or partly located in the territory of:

- (1) a metropolitan planning organization; or
- (2) two adjacent districts of the department.

SECTION __.65. Section 361.333, Transportation Code, is amended to read as follows:

Sec. 361.333. ISSUANCE OF TURNPIKE REVENUE BONDS; PLEDGE OF PROJECT REVENUE. Subject to this chapter, the commission ~~[authority]~~ may:

- (1) provide by order ~~[resolution]~~ for the issuance of turnpike revenue bonds to pay all or part of the cost of a pooled turnpike project; and
- (2) pledge all or part of the revenue of the project.

SECTION __.66. Sections 361.334(a) and (e), Transportation Code, are amended to read as follows:

(a) The commission ~~[authority]~~ by order ~~[resolution]~~ may issue turnpike revenue refunding bonds to:

- (1) refund any outstanding bonds issued under this chapter for a pooled turnpike project, including any redemption premium on the bonds and any interest accrued as of the date of redemption of the bonds; and
- (2) construct an improvement, extension, or enlargement to a pooled turnpike project.

(e) The commission ~~[authority]~~ may:

- (1) issue refunding bonds in exchange for outstanding bonds; or
- (2) sell refunding bonds and use the proceeds to redeem outstanding bonds.

SECTION __.67. Section 361.335, Transportation Code, is amended to read as follows:

Sec. 361.335. ISSUANCE OF BONDS AND PLEDGE OF TURNPIKE PROJECT REVENUE WITHOUT REGARD TO WHETHER BONDS ARE REFUNDED. Without regard to whether bonds are refunded, the commission [~~authority~~] by order [~~resolution~~] may:

- (1) issue bonds, of parity or otherwise, to:
 - (A) pay all or part of the cost of a pooled turnpike project; or
 - (B) construct an improvement, extension, or enlargement to a pooled turnpike project; and
- (2) pledge all or part of the revenue of the pooled turnpike project to the payment of the bonds.

SECTION __.68. Sections 362.003(b) and (c), Transportation Code, are amended to read as follows:

(b) This chapter is cumulative of all laws affecting the commission, the department, and the local governmental entities, except that in the event any other law conflicts with this chapter, the provisions of this chapter prevail. Chapters 1201 and 1371, Government Code, and Subchapters A, B, and C, Chapter 1207, Government Code, apply to bonds issued by the commission under this chapter.

(c) ~~The department may [This chapter is cumulative of all laws affecting the authority, and the authority is authorized to] enter into all agreements necessary or convenient to effectuate the purposes of this chapter. [Particularly, but not by way of limitation, the provisions of Chapters 1201 and 1371, Government Code, and Subchapters A-C, Chapter 1207, Government Code, and Chapter 361 are applicable to the bonds issued by the authority under this chapter.]~~

SECTION __.69. Sections 362.007(a) and (b), Transportation Code, are amended to read as follows:

(a) Under authority of Section 52, Article III, Texas Constitution, a local governmental entity other than a nonprofit corporation may, upon the required vote of the qualified voters, in addition to all other debts, issue bonds or enter into and make payments under agreements with the department [~~authority~~], not to exceed 40 years in term, in any amount not to exceed one-fourth of the assessed valuation of real property within the local governmental entity, except that the total indebtedness of any municipality shall never exceed the limits imposed by other provisions of the constitution, and levy and collect taxes to pay the interest thereon and provide a sinking fund for the redemption thereof, for the purposes of construction, maintenance, and operation of turnpike projects of the department [~~authority~~], or in aid thereof.

(b) In addition to Subsection (a), a local governmental entity may, within any applicable constitutional limitations, agree with the department [~~authority~~] to issue bonds or enter into and make payments under an agreement to construct, maintain, or operate any portion of a turnpike project of the department [~~authority~~].

SECTION __.70. Section 362.008, Transportation Code, is amended to read as follows:

Sec. 362.008. ADDITIONAL AGREEMENTS OF DEPARTMENT [~~AUTHORITY~~]. The department [~~authority~~] may enter into any agreement necessary or convenient to achieve the purposes of this subchapter.

SECTION __.71. The heading to Section 545.354, Transportation Code, is amended to read as follows:

Sec. 545.354. AUTHORITY OF ~~[TEXAS TURNPIKE AUTHORITY AND]~~ REGIONAL TOLLWAY AUTHORITIES TO ALTER SPEED LIMITS ON TURNPIKE PROJECTS.

SECTION __.72. Section 545.354(a)(1), Transportation Code, is amended to read as follows:

(1) In this section, "authority" means ~~[the Texas Turnpike Authority or]~~ a regional tollway authority governed by Chapter 366.

SECTION __.73. Section 621.102(a), Transportation Code, is amended to read as follows:

(a) ~~The~~ ~~[Except as provided by Subsection (h), the]~~ commission may set the maximum single axle weight, tandem axle weight, or gross weight of a vehicle, or maximum single axle weight, tandem axle weight, or gross weight of a combination of vehicles and loads, that may be moved over a state highway or a farm or ranch road if the commission finds that heavier maximum weight would rapidly deteriorate or destroy the road or a bridge or culvert along the road. A maximum weight set under this subsection may not exceed the maximum set by statute for that weight.

SECTION __.74. Sections 222.103(i) and (j), 361.005, 361.043, 361.046, 361.0485, 361.049, 361.051, 361.052, 361.053, 361.055, 361.102, 361.181, 361.182, 361.184, 361.231(b), 361.237, 361.308, 362.001(1), 362.052, 362.053, and 621.102(h), Transportation Code, are repealed.

SECTION __.75. This article 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, this article takes effect September 1, 2003.

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

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 30 on Third Reading

Amend **CSHB 3588** in Section 12 of the bill by adding the following appropriately numbered Section and renumber subsequent sections accordingly:

SECTION __. Title 3, Transportation Code, is amended by adding Chapter 27 to read as follows:

CHAPTER 27. AIRPORT AUTHORITIES SUBCHAPTER A. GENERAL PROVISIONS

Sec. 27.001. LEGISLATIVE DECLARATION. (a) The economic well-being of the state and the general welfare of its residents require adequate, safe, secure, and efficient aviation facilities at a reasonable cost.

(b) The purpose of this chapter is to authorize the creation by the state, counties, and municipalities, through their independent or joint action, airport authorities, corporate and politic, constituting political subdivisions of the state, for the purpose of:

(1) acquiring and improving airports, heliports, air navigation facilities, and related facilities;

(2) financing the cost of the activities listed under Subdivision (1) by the issuance of bonds or other obligations of an authority payable from the income of the authority and otherwise secured to the extent permitted by law without the incurrence of debt by the state or by a political subdivision; and

(3) promoting and facilitating transportation by air from or to points located within the state, to the benefit and general welfare of the state, including its political subdivisions and inhabitants.

Sec. 27.002. DEFINITIONS. In this chapter:

(1) "Aircraft" means a contrivance invented, used, or designed for navigation of or flight in the air, except a parachute or other contrivance designed for use primarily as safety equipment.

(2) "Air navigation facility" means a facility used in, available for use in, or designed for use in aid of air navigation, including a structure, mechanism, light, beacon, marker, communicating system, or other instrumentality or device used or useful as an aid or constituting an advantage or convenience to the safe taking-off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport or heliport, including any combination of facilities listed above.

(3) "Airport" means an area of land or water that is used, or intended for use, for the landing, taking-off, storage, parking, or dispersal of aircraft, including:

(A) any appurtenant areas that are used or intended for use for airport buildings, facilities, or rights-of-way; and

(B) airport buildings, structures, and facilities located on the area of land or water.

(4) "Airport building" means a building used or to be used in connection with:

(A) the construction, enlargement, development, maintenance, or operation of an airport or heliport; or

(B) the exercise of any power of the authority.

(5) "Airport facility" means a building, structure, land, right-of-way, equipment, or instrumentality used or to be used in connection with the construction, enlargement, development, maintenance, or operation of an airport or heliport.

(6) "Airport hazard" means a structure, object of natural growth, or use of land that:

(A) obstructs the airspace required for the flight of aircraft in landing or taking off at an airport or heliport; or

(B) is otherwise hazardous to the flight of aircraft in landing or taking off at an airport or heliport.

(7) "Authority" means a public corporation organized under this chapter.

(8) "Board" means the board of directors of an authority.

(9) "Bond" means a bond authorized to be issued under this chapter.

(10) "Coupon" means an interest coupon evidencing an installment of interest payable with respect to a bond.

(11) "Director" means a member of the board of directors of an authority.

(12) "Heliport" means an airport designed primarily for use by helicopters.

(13) "Indenture" means a mortgage, indenture of mortgage, deed of trust, trust agreement, or trust indenture executed by an authority as security for bonds.

[Sections 27.003-27.030 reserved for expansion]
SUBCHAPTER B. INCORPORATION AND ADMINISTRATION
OF AUTHORITY

Sec. 27.031. INCORPORATION. (a) An authority may be organized as a public corporation under this chapter.

(b) At least three natural persons shall file with the governing body of one or more counties or municipalities an application in writing for permission to incorporate a public corporation under this chapter and shall attach to the application a proposed form of articles of incorporation for the corporation.

(c) If each governing body with which the application is filed adopts a resolution approving the form of the articles of incorporation and authorizing the formation of a public corporation, the applicants under Subsection (b) become the incorporators of and shall incorporate the authority as a public corporation under this chapter using the form of the articles approved.

Sec. 27.032. ADDITIONAL COUNTIES OR MUNICIPALITIES. An additional county or municipality may become part of an authority if each additional county or municipality and each county or municipality in the authority adopts a resolution consenting to the inclusion of the additional county or municipality in the authority.

Sec. 27.033. INCLUSION IN AUTHORITY. On the inclusion of a county or municipality in an authority, either initially or as an additional member, all rights, contracts, obligations, and property, both real and personal, of a municipality or county used for or in relation to transportation by air shall vest in the authority created under this subchapter unless otherwise specified by the resolution including the municipality or county in the authority.

Sec. 27.034. STATE JOINING AN AIRPORT AUTHORITY. The governor, on behalf of the state, may authorize the state to join in the creation of an authority under this subchapter or to join an existing authority created under this subchapter.

Sec. 27.035. WITHDRAWAL FROM AUTHORITY. (a) After the organization of an airport authority by more than one governmental entity, a county or municipality in an authority may withdraw from the authority by resolution of the commissioners court of the county or governing body of the municipality.

(b) A withdrawing county or municipality may not claim or remove an asset of the authority.

Sec. 27.036. CONTENTS OF CERTIFICATE OF INCORPORATION. The certificate of incorporation of an authority shall state:

(1) the name and county of residence of each person forming the authority;
(2) the name of the authority which must include the words "airport authority";

(3) the duration of the authority or if the duration is perpetual, the fact that the authority is of perpetual duration;

(4) the names of the governmental entities in the authority and the date on which the:

(A) governing body of the county or municipality adopted the resolution authorizing the incorporation of the authority or consenting to the inclusion of the county or authority; or

(B) governor authorized the state to join in the creation of an authority or an existing authority;

(5) the proposed location in this state of the principal office of the authority;
and

(6) any other matters relating to the authority that the incorporators choose to insert and that are not inconsistent with this chapter or the laws of this state.

Sec. 27.037. INCORPORATION; EXECUTION AND FILING OF ARTICLES.

(a) The articles of incorporation of an authority shall:

(1) be signed and acknowledged by the incorporators; and

(2) have attached a certified copy of each of the resolutions provided for in Section 27.031.

(b) The articles of incorporation of an authority and the documents required to be attached under Subsection (a) shall be filed with the secretary of state.

(c) When a certificate of incorporation is issued by the secretary of state after the filing of the articles and attached documents, the authority referred to in the certificate shall:

(1) come into existence;

(2) constitute a public corporation under the name listed in the certificate;

and

(3) have all the rights and powers given to authorities under this chapter.

Sec. 27.038. BOARD OF DIRECTORS. (a) The governing body of an authority is a board with at least five but no more than nine members appointed as follows:

(1) if the state alone authorizes an authority, the members shall be elected by the governor, the lieutenant governor, and the speaker of the house of representatives with the total number of members to be set out in the articles of incorporation of the authority;

(2) if the sole authorizing governmental entity is a county, the commissioners court of the county shall elect the members with the number of members to be set out in the articles of incorporation of the authority; and

(3) in all other cases:

(A) one member shall be elected by each governing body of an authorizing governmental entity;

(B) one member shall be elected by the commissioners court of the county in which the principal office of the authority is located, if the county is not an authorizing governmental entity; and

(C) one additional member shall be elected by the governing bodies of each authorizing governmental entity and the commissioners court of the county in which the principal office of the authority is located.

(b) Each member elected by a governing body of an authorizing governmental entity must be a resident of the authorizing governmental entity. The additional member elected under Subsection (a)(3)(C) may be a resident of any county electing the member.

(c) Other than the additional member elected under Subsection (a)(3)(C), each authorizing governmental entity may elect the same number of members as any other authorizing governmental entity.

(d) A board member is eligible for re-election.

(e) If the state joins in the creation of an airport authority under this subchapter or joins an existing airport authority created under this subchapter, the state is entitled to the number of board members agreed on by the authorizing governmental entities and the state, but is entitled to at least one board member. A board member representing the state shall be appointed by the governor.

(f) The board may employ and set the compensation of necessary personnel.

Sec. 27.039. VACANCY; IMPEACHMENT. (a) Except as provided by Subsection (b), if a board member resigns, dies, or becomes incapable or ineligible to act as a board member, a successor to serve the unexpired portion of the board member's term shall be elected in the same manner provided by Section 27.038 as the board member whose unexpired term the successor is filling.

(b) If a vacancy in the office of the additional member elected under Section 27.038(a)(3)(C) continues for more than 30 days, the governor shall, on the request of any governmental entity that elected the member, appoint a successor.

(c) A board member may be impeached and removed from office.

Sec. 27.040. ELIGIBILITY. An officer of the state, a county, or a municipality is not eligible to serve as a board member.

Sec. 27.041. TERMS. (a) The term of office of a board member shall be set out in the articles of incorporation of an authority.

(b) Board members serve staggered terms so that the term of at least one member expires each year.

Sec. 27.042. QUORUM. (a) Except as provided by Subsection (b), a majority of the board members constitutes a quorum for the transaction of business.

(b) A meeting of a board may be adjourned by a majority of the board members present or may be adjourned by a single board member if the member is the only board member present at the meeting.

(c) A vacancy in the board shall not impair the right of a quorum to exercise all the powers and duties of an authority.

Sec. 27.043. MEETINGS. (a) A board shall hold regular monthly meetings and any other meeting as provided for in the bylaws of the authority.

(b) A board may hold a special meeting at the call of the chair of the authority or two board members.

(c) Any matter on which the board is authorized to act may be acted upon at a regular or special meeting.

(d) At the request of a board member, the vote on a question before a board shall be taken by yeas and nays and entered upon the record. All proceedings of a board shall be reduced to writing by the secretary of the authority and open to board members and to the public at all times. Copies of the proceedings, when certified by the secretary of an authority under its seal, are admissible in a court as evidence of the matters certified in the proceedings.

Sec. 27.044. COMPENSATION. A board member is not entitled to receive compensation but is entitled to reimbursement for actual and necessary expenses.

Sec. 27.045. OFFICERS. (a) Officers of the board consist of a chair, vice chair, secretary, and any other officer the board considers necessary.

(b) The board shall elect from the members of the board a chair, vice chair, and secretary for a term of one year.

(c) The treasurer and any other officers a board considers necessary need not be members of the board and shall be elected by the board for terms determined by the board.

(d) The offices of secretary and treasurer may be held by the same person.

Sec. 27.046. TAX EXEMPTION; BONDS, PROPERTY, INCOME. (a) Bonds issued by an authority and the income on the bonds are exempt from all state taxation.

(b) All property and income of an authority are exempt from all state, county, municipal, and other local taxation.

(c) Subsection (b) does not exempt concessionaires, licensees, tenants, operators, or lessees of an authority from the payment of any taxes, including licenses or privilege taxes levied by the state, a county, or a municipality.

Sec. 27.047. TAX EXEMPTION; ACCESS TO AIRPORTS. A county or municipality may not require the payment of any tax or privilege license from a person, firm, or corporation for the reasonable use of public streets, roads, or highways leading to or from an airport, heliport, or aircraft landing area owned or operated by or under the jurisdiction of an authority.

Sec. 27.048. ZONING. (a) An authority is exempt from zoning laws, ordinances, and regulations.

(b) An authority has the same zoning powers with respect to the zoning of an airport in an unincorporated area owned or operated by the authority and the zoning of the unincorporated area lying within two miles of the boundaries of the airport as a municipality that owns or operates an airport.

Sec. 27.049. GENERAL POWERS. An authority may:

(1) have succession by its corporate name for the duration of time specified in the articles of incorporation;

(2) sue and be sued in its own name in civil suits and actions, except actions in tort against the authority;

(3) adopt and make use of a corporate seal;

(4) adopt and alter bylaws for the regulation and conduct of its affairs and business;

(5) acquire, receive, take, and hold, by purchase, gift, lease, devise, or other means, property, regardless of whether in one or more counties or within or outside the corporate limits of an authorizing governmental entity, and manage the property, including developing undeveloped property owned, leased, or controlled by the authority;

(6) execute a contract or other instrument;

(7) enter on land, water, and premises for the purposes of making surveys, soundings, and examinations;

(8) plan, establish, develop, acquire, construct, enlarge, improve, maintain, equip, operate, regulate, and protect an airport and air navigation facility, including the:

(A) acquisition, construction, installation, equipment, maintenance, and operation at, in connection with, or in furtherance of the use at an airport of sanitary and storm sewage systems and water, electric, and gas systems, buildings, hangars, and other facilities for:

(i) airlines, U.S. military aircraft, and general aviation aircraft; or

(ii) the comfort, use, and accommodation of air travelers; and

(B) purchase and sale of supplies, goods, and commodities incident to the operation of an airport property;

(9) construct, acquire, establish, improve, extend, enlarge, reconstruct, equip, maintain, repair, and operate a heliport, an aerial aircraft landing, loading, or storage area, and a transportation terminal;

(10) construct, acquire, establish, improve, extend, enlarge, reconstruct, equip, maintain, and repair a building, structure, or facility that is suitable for use as a manufacturing plant, industrial plant, retail shopping area, park, exhibit, or for the conduct of lawful business at, on, or adjacent to an airport, heliport, or aircraft landing area owned or operated by the authority;

(11) lease a building, structure, or facility described in Subdivision (10) to a tenant under terms approved by the authority;

(12) for compensation, furnish or supply on an airport, heliport, or aircraft landing area owned or operated by or under the jurisdiction of the authority, to persons and aircraft, goods, commodities, area facilities, and services convenient or useful to the owners, operators, and users of aircraft and to persons at the airport, heliport, or aircraft landing area, including food, lodging, shelter, drinks, confections, reading matter, oil, gasoline, jet fuel, motors, engines, aircraft, aircraft parts and equipment, space in buildings, space for buildings and structures, and the services of mechanics and instructors;

(13) confer on an individual, firm, corporation, or company, for compensation, the privilege or concession of supplying on an airport, heliport, or aircraft landing area owned or operated by or under the jurisdiction of the authority, all of the items to be furnished or supplied under Subdivision (12);

(14) acquire, including by eminent domain, establish, construct, expand, own, control, equip, improve, maintain, operate, and regulate a satellite airport or landing field for the use of aircraft in the state;

(15) acquire, including by purchase, gift, devise, lease, or eminent domain proceedings, an existing airport and air navigation facility with the consent of the county, municipality, or public agency of the state that owns or controls the airport and air navigation facility;

(16) issue interest-bearing bonds payable from the limited sources available under this chapter;

(17) pledge for payment of bonds any revenues and funds from which the bonds are made payable;

(18) enter into a contract, lease, or agreement incidental to or necessary for the accomplishment of any purpose for which the authority was organized;

(19) exercise the power of eminent domain with respect to property, including airspace, air navigation easements, structures, obstructions to flight, and property already devoted to public use that reasonably may be necessary for the

construction, extension, maintenance, operation, protection, enlargement, improvement, or preservation of an airport or airport facility or sanitary or storm sewage systems water, electric, and gas systems on, adjacent to, or in connection with or for the furtherance of the use of an airport, heliport, aircraft landing area, or other property owned by or operated by the authority;

(20) appoint, employ, contract with, and compensate officers, employees, and agents, including engineers, security officers and guards, attorneys, consultants, fiscal advisers, and other employees the authority may require;

(21) fix, establish, collect, and alter landing fees, tolls, rents, and other charges for the use of an airport, heliport, landing area, building, structure, facility, or other property owned or controlled by the authority;

(22) make and enforce rules governing the use of an airport, heliport, landing area, or airport facility owned or controlled by the authority;

(23) provide for insurance, including use and occupancy insurance, as determined by the board;

(24) invest funds of the authority that the board determines are not presently needed for its corporate purposes in:

(A) a direct general obligation of the United States;

(B) an obligation that is unconditionally guaranteed as to both principal and interest by the United States; or

(C) bonds of the state, a county, or a municipality;

(25) contract with the state, a county, a municipality, a public corporation, an agency, a department, or other political subdivision of this state if the board determines that the contract accomplishes the purposes for which the authority was established;

(26) sell and convey property that is obsolete, worn out, or no longer needed or useful;

(27) receive and accept for the construction, extension, improvement, maintenance, or operation of an airport, heliport, or airport facility money, property, labor, or other thing of value from any source, including grants from the United States, the state, or any political subdivision of the state;

(28) purchase services, equipment, and supplies necessary or convenient for the exercise of any power of the authority;

(29) enter into a management agreement with a county or municipality for the management by the authority of an airport, heliport, air navigation facility, or other facility useful to the authority; and

(30) take any other action necessary or convenient to carry out the purposes of this chapter or the exercise of a power granted under this chapter.

Sec. 27.050. LIMITATION ON POWER. An authority may not acquire by eminent domain real property or rights owned or held by a railroad or utility.

Sec. 27.051. MUNICIPAL VOTE REQUIRED. Before an authority may own, acquire, construct, or operate an airport or an airport facility within the corporate limits of a municipality, a majority of the governing body of the municipality must vote in favor of the proposed airport or airport facility.

Sec. 27.052. PEACE OFFICERS. (a) The authority may employ security officers who have obtained a peace officer license issued by the Commission on Law Enforcement Officer Standards and Education.

(b) A court of a municipality that is an authorizing governmental entity has jurisdiction over a misdemeanor committed on the property of an authority.

(c) A county that is an authorizing governmental entity has jurisdiction over a misdemeanor committed on the property of an authority if there is no authorizing municipality.

Sec. 27.053. FUNDING. (a) An authority is authorized to accept, receive, disburse, and expend federal money, state money, and any other money made available by grant or loan to accomplish a purpose of this chapter.

(b) Federal money accepted under this section shall be accepted and expended by an authority on terms prescribed by the United States that are not inconsistent with the laws of this state.

Sec. 27.054. ASSISTANCE BY STATE OR LOCAL ENTITIES. A county, municipality, or other political subdivision of the state, including a public corporation, may, with or without consideration:

(1) lend or donate money to an authority;

(2) provide that all or part of the taxes or funds available to it or required by law to be used by it for airport purposes shall be transferred or paid directly to an authority;

(3) cause water, sewer, or drainage facilities or any other facilities that it is empowered to provide to be furnished adjacent to or in connection with an airport, heliport, or air navigation facility;

(4) donate, sell, convey, transfer, or lease to an authority any land, property, franchise, grant, easement, license, or lease that it owns;

(5) donate, sell, convey, or lease an airport, airport property, heliport, heliport property, or any interest in an airport, airport property, heliport, or heliport property owned by it to an authority;

(6) donate, transfer, assign, sell, or convey to an authority any right, title, or interest that it has in a lease, contract, agreement, license, or property;

(7) furnish, dedicate, close, pave, repair, install, grade, regrade, plan, or replan streets, roads, roadways, and walks:

(A) from established streets or roads to an airport or air navigation facility; or

(B) abutting or adjacent to an airport or air navigation facility;

(8) take any other action that is necessary or convenient to aid and cooperate with an authority in the planning, undertaking, construction, or operation of an airport, heliport, or air navigation facility; and

(9) furnish, at the request of an authority, fire and air crash equipment and personnel to properly operate the equipment at an airport, heliport, or aircraft landing area owned, operated, or under the jurisdiction of an authority or train authority personnel in fire, crash, and rescue.

Sec. 27.055. DISSOLUTION. (a) If an authority does not have outstanding bonds, the authority may be dissolved on the filing of articles of dissolution with the secretary of state that shall be sworn to and subscribed by each member of the authority.

(b) On issue of a certificate of dissolution by the secretary of state, an authority ceases to exist. On dissolution, all rights, titles, and interests of the authority in property:

(1) vest in the authorizing governmental entities as provided by the articles of incorporation; or

(2) if not provided for in the articles of incorporation, vest in the authorizing governmental entities equally.

Sec. 27.056. CONTRACT VALIDATION. A contract entered into or a legal action instituted by a de facto or de jure authority is validated.

[Sections 27.057-27.100 reserved for expansion]

SUBCHAPTER C. BONDS

Sec. 27.101. GENERAL PROVISIONS. (a) An authority may issue interest-bearing revenue bonds for any of its corporate purposes.

(b) The principal of and the interest on bonds is payable solely from and may be secured by a pledge of the revenues derived by an authority from the operation of authority airports, heliports, facilities, and other property.

(c) Bonds issued or contracts entered into by an authority under this chapter do not create debt of the state, a county, or a municipality and do not create a charge against the credit or taxing powers of the state, a county, or a municipality.

Sec. 27.102. BONDS ISSUED. (a) Board proceedings shall determine how bonds are issued, including the following matters:

(1) whether the bonds are issued at any time and from time to time;

(2) bond form and denominations;

(3) bond tenor, payable in installments, and at times not to exceed 40 years from the date of issue;

(4) place of issue; and

(5) rate of interest.

(b) A bond having a stated maturity date more than 10 years after its date of issue shall be made subject to redemption at the option of an authority not later than the 10th anniversary of its date of issue and on any interest payment date after that time at a price, after notice, on terms, in the manner provided in the board proceeding that authorized the bond issuance.

(c) Bonds of an authority may be sold at public or private sale in the manner and from time to time as may be determined by the board.

(d) An authority may pay all reasonable expenses, premiums, fees, and commissions that the board determines are necessary or advantageous in connection with the authorization, sale, and issuance of bonds.

(e) Bonds must contain a recital that the bonds are issued under this chapter.

(f) A public hearing is not required for the issuance of bonds by an authority.

(g) Notwithstanding the fact that they are payable solely from a specified source, bonds issued under this chapter are negotiable instruments within the meaning of the negotiable instruments law of this state if the bonds otherwise possess all the characteristics of a negotiable instrument under the law of this state.

Sec. 27.103. NOTICE; CHALLENGES. (a) On the adoption of a resolution providing for the issuance of bonds, an authority may publish, once a week for two consecutive weeks, in a newspaper that is distributed in the county in which the principal office of the authority is located, notice in substantially the following form at the end of which shall be printed the name and title of either the chair or secretary of the authority:

" _____, a public corporation of the State of Texas, on the _____ day of _____ authorized the issuance of \$ _____ principal amount of revenue bonds of the corporation for purposes authorized in the Act of the Legislature of Texas under which the corporation was organized. Any action or proceeding questioning the validity of the bonds, or the pledge and any instruments securing the bonds, or the proceedings authorizing the bonds, must be commenced within 20 days after the first publication of this notice."

(b) An action or proceeding in a court to set aside or question the proceedings for the issuance of bonds referred to in a notice under Subsection (a) or to contest the validity of the bonds or the validity of the pledge and any instruments made to secure the bonds must be commenced before the 31st day after the date of first publication of the notice.

(c) After the 30-day period described under Subsection (b) expires:

(1) a right of action or defense questioning or attacking the validity of the proceedings, bonds, pledge, or instruments may not be asserted; and

(2) the validity of the proceedings, bonds, pledge, or instruments are not open to question in a court on any ground.

Sec. 27.104. EXECUTION AND DELIVERY. (a) Bonds shall be signed by the chair or vice chair and by the secretary or treasurer of an authority. The signature of one of the officers whose signatures will appear on the bonds may be imprinted or otherwise reproduced.

(b) The seal of an authority shall be affixed onto the bonds or a facsimile of the seal of an authority shall be imprinted or otherwise reproduced on the bonds.

(c) Coupons shall be signed by the chair or vice chair and by the secretary or treasurer of an authority. The signature of the secretary or treasurer may be imprinted or otherwise reproduced.

(d) Delivery of bonds executed as provided under this section is valid notwithstanding any changes in officers or in the authority seal after the signing and sealing of the bonds.

Sec. 27.105. SECURITY. (a) At the discretion of an authority, bonds may be issued under and secured by an indenture between the authority and a trustee. A trustee may be a private person or corporation, including a trust company or bank having trust powers.

(b) In an indenture or resolution providing for the issuance of bonds, the authority may:

(1) pledge, for payment of the principal of and the interest on bonds, authority revenues;

(2) assign, as security for payment, a lease, franchise, permit, or contract; and

(3) mortgage a property.

(c) A pledge of revenues shall be valid and binding from the time it is made. Pledged revenues received after the pledge by an authority immediately become subject to the lien of the pledge without physical delivery or further act. The lien of the pledge is valid and binding against a party having a claim of any kind against the authority, regardless of whether the party has actual notice of the lien, from the time a statement is filed in the office of the county clerk of:

(1) the county in which the principal office of the authority is located; or

(2) a county in which any part of the property, the revenues from which are pledged, is located.

(d) A statement under Subsection (c) must contain:

(1) the date on which a resolution authorizing the issuance of bonds was adopted by a board;

(2) the principal amount of bonds issued;

(3) a brief description of the revenues pledged; and

(4) a brief description of property the revenues from which are pledged.

(e) In an indenture or resolution pledging revenues from an airport, heliport, building, or facility, an authority may include provisions customarily contained in instruments securing evidence of indebtedness, including provisions relating to:

(1) the collection, segregation, and application of rental or other revenue due or to become due to the authority;

(2) the terms to be incorporated in a lease agreement pertaining to authority property;

(3) the maintenance and insurance of a building or structure owned by the authority;

(4) the creation and maintenance of special funds from revenue of the authority;

(5) the rights and remedies available in the event of default to the holder of the bonds or the trustee under the indenture; and

(6) restricting the individual rights of action of the holders of the bonds and coupons.

(f) If an authority defaults in payment of the principal of or interest on bonds or in an agreement included in an indenture securing the bonds, a holder of the bonds or any of the coupons, or the trustee under an indenture if authorized in the indenture:

(1) may enforce payment of the principal or interest by civil action, mandamus, or other proceeding;

(2) may compel performance of a duty of the board and officers of the authority; and

(3) shall be entitled as a matter of right and regardless of the sufficiency of the security to the appointment of a receiver with all the powers of a receiver for the:

(A) operation and maintenance of the property of the authority covered by the indenture; and

(B) collection, segregation, and application of revenues from property of the authority covered by the indenture.

Sec. 27.106. PROCEEDS. (a) Proceeds derived from the sale of bonds may be used only to pay the cost of acquiring, constructing, improving, enlarging, and equipping an airport, facility, or property as specified in the proceedings in which the bonds are authorized to be issued.

(b) Eligible costs under Subsection (a) include:

(1) the cost of land forming a part of an airport, facility, or property;

(2) the cost of labor, material, and supplies used in the construction, improvement, or enlargement, including architects' and engineers' fees and the cost of preparing contract documents and advertising for bids;

(3) the purchase price of and the cost of installing equipment for the airport, facility, or property;

(4) the cost of landscaping the lands forming a part of an airport, facility, or property, and of constructing roads, sidewalks, curbs, gutters, utilities, and parking places in connection with an airport, facility, or property;

(5) legal, fiscal, and recording fees and expenses incurred in connection with the authorization, sale, and issuance of bonds issued in connection with an airport, facility, or property; and

(6) interest on bonds issued in connection with an airport, facility, or property for a reasonable period before and during the time required for the construction and equipment not to exceed 18 months after the date of completion of the construction and equipment.

(c) If any proceeds derived from the sale of bonds remain undisbursed after completion of the work described under Subsection (a) and payment of costs under Subsection (b), the proceeds shall be used for retirement of the principal of the bonds of the same issue.

Sec. 27.107. REFUNDING BONDS. (a) An authority may at any time and from time to time issue refunding bonds for the purpose of:

(1) refunding the principal of and interest on outstanding bonds of the authority regardless of whether the principal and interest have matured at the time of the refunding; and

(2) paying the expenses incurred in connection with the refunding and any premium necessary to be paid to redeem, retire, or purchase for retirement the bonds to be refunded.

(b) Proceeds derived from the sale of refunding bonds may be used only for the purposes for which the refunding bonds were authorized to be issued.

(c) Refunding may be effected:

(1) by sale of the refunding bonds and the application of the proceeds; or

(2) by exchange of the refunding bonds for the bonds or interest coupons to be refunded, except that the holders of the bonds or coupons to be refunded may not be compelled without their consent to surrender their bonds or coupons for payment or exchange before the date on which they may be paid or redeemed by call of the authority under their respective provisions.

(d) This subchapter applies to refunding bonds to the extent the provisions are consistent with this section.

(e) If an authority issues bonds for the purpose of refunding the principal of and interest on any of its bonds or for any other purpose for which it is authorized to issue bonds, this section applies only to the portion of the combined issue authorized for refunding purposes, and the rest of this subchapter applies to the remaining portion of the combined issue.

Sec. 27.108. LOCAL GOVERNMENT INVESTMENT. A governing body of a county or municipality may invest idle or surplus money held in its treasury in bonds of an authority.

Sec. 27.109. LEGAL INVESTMENTS. (a) Bonds issued under this subchapter are legal investments for executors, administrators, trustees, and other fiduciaries, unless otherwise directed by the court having jurisdiction of the fiduciary relation or by the document that is the source of the fiduciary's authority.

(b) Bonds issued under this subchapter are legal investments for savings banks and insurance companies organized under the laws of this state.

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

VOTE RECONSIDERED

On motion of Senator Wentworth and by unanimous consent, the vote by which Floor Amendment No. 30 was adopted was reconsidered.

Question — Shall Floor Amendment No. 30 on Third Reading to **CSHB 3588** be adopted?

Senator Wentworth offered the following amendment to the amendment:

Floor Amendment No. 31 on Third Reading

Amend Floor Amendment No. 30 on Third Reading to **CSHB 3588**, in Section 27.050 (page 18) by striking lines 13-15 and substituting the following:

"Sec. 27.050. LIMITATION ON POWER. (a) An authority may not acquire by eminent domain real property or rights owned or held by a railroad or utility.

(b) An authority may not acquire an airport served by certificated air carriers under Part 139 of the Code of Federal Regulation for scheduled air service."

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

Question recurring on the adoption of Floor Amendment No. 30 as amended, the amendment as amended was again adopted by a viva voce vote.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 32 on Third Reading

Amend **CSHB 3588** by adding the following ARTICLE to the bill, appropriately numbered, and renumbering existing ARTICLES accordingly:

ARTICLE ____ . COMMERCIAL MOTOR VEHICLE
SAFETY STANDARDS

SECTION ____.01. Subdivision (1), Section 548.001, Transportation Code, is amended to read as follows:

(1) "Commercial motor vehicle" means a self-propelled or towed vehicle, other than a farm vehicle with a gross weight, registered weight, or gross weight rating of less than 48,000 pounds, that is used on a public highway to transport passengers or cargo if:

(A) the vehicle, including a school activity bus as defined in Section 541.201, or combination of vehicles has a gross weight, registered weight, or gross weight rating of more than 26,000 pounds;

(B) the vehicle, including a school activity bus as defined in Section 541.201, is designed or used to transport more than 15 passengers, including the driver; or

(C) the vehicle is used to transport hazardous materials in a quantity requiring placarding by a regulation issued under the Hazardous Materials Transportation Act (49 U.S.C. Section 5101 [~~4804~~] et seq.).

SECTION _____.02. Subdivisions (1) and (5), Section 644.001, Transportation Code, are amended to read as follows:

(1) "Commercial motor vehicle" means:

(A) a commercial motor vehicle as defined by 49 C.F.R. Section 390.5, if operated interstate; or

(B) a commercial motor vehicle as defined [~~described~~] by Section 548.001, if operated intrastate.

(5) "Federal motor carrier safety regulation" means a federal regulation in Subtitle A, Title 49, or Subchapter B, Chapter III, Subtitle B, Title 49, Code of Federal Regulations.

SECTION _____.03. Subsections (a) through (d), Section 644.103, Transportation Code, are amended to read as follows:

(a) An officer of the department may stop, enter, or detain on a highway or at a port of entry a motor vehicle that is subject to this chapter.

(b) A municipal police officer who is certified under Section 644.101 may stop, enter, or detain on a highway or at a port of entry within the territory of the municipality a motor vehicle that is subject to this chapter. A sheriff or deputy sheriff who is certified under Section 644.101 may stop, enter, or detain on a highway or at a port of entry within the territory of the county a motor vehicle that is subject to this chapter.

(c) A person [~~An officer~~] who detains a vehicle under this section may prohibit the further operation of the vehicle on a highway if the vehicle or operator of the vehicle is in violation of a federal safety regulation or a rule adopted under this chapter.

(d) A noncommissioned employee of the department who is certified for the purpose by the director and who is supervised by an officer of the department may, at a fixed-site facility, stop, enter, or detain a motor vehicle that is subject to this chapter. If the employee's inspection shows that an enforcement action, such as the issuance of a citation, is warranted, the noncommissioned employee may take enforcement action only if the employee is under the supervision of an [~~supervising~~] officer of the department [~~must take the action~~].

SECTION _____.04. Section 644.153, Transportation Code, is amended to read as follows:

Sec. 644.153. ADMINISTRATIVE PENALTY. (a) The department may impose an administrative penalty against a person who violates:

(1) a rule adopted under this chapter; or

(2) a provision of Subchapter [Subtitle] C that the department by rule subjects to administrative penalties.

(b) To be designated as subject to an administrative penalty under Subsection (a)(2), a provision must relate to the safe operation of a commercial motor vehicle.

(c) The department shall:

(1) designate one or more employees to investigate violations and conduct audits of persons subject to this chapter; and

(2) impose an administrative penalty if the department discovers a violation that is covered by Subsection (a) or (b).

(d) A penalty under this section[~~;~~

[(~~+~~)] may not exceed the maximum penalty provided for a violation of a similar federal safety regulation[~~;~~ and

[(2) shall be administered in the same manner as a penalty under Section 643.251, except that the amount of a penalty shall be determined under Subdivision (~~+~~)].

(e) If the department determines to impose a penalty, the department shall issue a notice of claim. The department shall send the notice of claim by certified mail, registered mail, personal delivery, or another manner of delivery that records the receipt of the notice by the person responsible. The notice of claim must include a brief summary of the alleged violation and a statement of the amount of the recommended penalty and inform the person that the person is entitled 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. [(~~+~~)] A person who is subject to an administrative penalty imposed by the department under this section [subchapter] is required to pay the penalty [administrative penalties] or respond to the department within 20 days of receipt of the department's notice of claim.

(f) Before the 21st day after the date the person receives the notice of claim, the person may:

(1) accept the determination and pay the recommended penalty; or

(2) make a written request for an informal hearing or an administrative 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.

(g) At the conclusion of an informal hearing requested under Subsection (f), the department may modify the recommendation for a penalty.

(h) If the person requests an administrative hearing, the department shall set a hearing and give notice of the hearing to the person. The hearing shall be held by an administrative law judge of the State Office of Administrative Hearings. The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the director a proposal for a decision as to the occurrence of the violation and the amount of a proposed penalty.

(i) If a penalty is proposed under Subsection (h), the administrative law judge shall include in the proposal for a decision a finding setting out costs, fees, expenses, and reasonable and necessary attorney's fees incurred by the state in bringing the proceeding. The director may adopt the finding and make it a part of a final order entered in the proceeding.

(j) Based on the findings of fact, conclusions of law, and proposal for a decision, the director by order may find that a violation has occurred and impose a penalty or may find that no violation occurred. The director may pursuant to Section 2001.058(e), Government Code, increase or decrease the amount of the penalty recommended by the administrative law judge within the limits prescribed by this chapter.

(k) Notice of the director's order shall be given to the affected person in the manner required by Chapter 2001, Government Code, and must include a statement that the person is entitled to seek a judicial review of the order.

(l) Before the 31st day after the date the director's order becomes final as provided by Section 2001.144, Government Code, the person must:

(1) pay the amount of the penalty;

(2) pay the amount of the penalty and file a petition for judicial review contesting:

(A) the occurrence of the violation;

(B) the amount of the penalty; or

(C) both the occurrence of the violation and the amount of the penalty;

or

(3) without paying the amount of the penalty, file a petition for judicial review contesting:

(A) the occurrence of the violation;

(B) the amount of the penalty; or

(C) both the occurrence of the violation and the amount of the penalty.

(m) Within the 30-day period under Subsection (l), a person who acts under Subsection (l) may:

(1) stay enforcement of the penalty by:

(A) paying the amount of the penalty to the court for placement in an escrow account; or

(B) filing with the court a supersedeas bond approved by the court for the amount of the penalty that is effective until all judicial review of the director's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court an affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and

(B) sending a copy of the affidavit to the director by certified mail.

(n) Before the sixth day after the date the director receives a copy of an affidavit filed under Subsection (m)(2), the department may file with the court a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as

practicable and shall stay the enforcement of the penalty if the court finds that the alleged facts are true. The person who files an affidavit under Subsection (m)(2) has the burden of proving that the person is financially unable to:

(1) pay the amount of the penalty; and

(2) file the supersedeas bond.

(o) If the person does not pay the amount of the penalty and the enforcement of the penalty is not stayed, the director may:

(1) refer the matter to the attorney general for collection of the amount of the penalty;

(2) initiate an impoundment proceeding under Subsection (q); or

(3) refer the matter to the attorney general and initiate the impoundment proceeding.

(p) [~~(e)~~] A person who fails to pay, or becomes delinquent in the payment of an administrative penalty[, the administrative penalties] imposed by the department under this subchapter may [~~shall~~] not operate or direct the operation of a commercial motor vehicle on the highways of this state until [~~such time as~~] the administrative penalty has [~~penalties have~~] been remitted to the department.

(q) [~~(f)~~] The department shall impound any commercial motor vehicle owned or operated by a person in violation of Subsection (p) [~~(e)~~] after the department has first served the person with a notice of claim. Service of the notice may be by certified mail, registered mail, personal delivery, or any other manner of delivery showing receipt of the notice.

(r) [~~(g)~~] A commercial motor vehicle impounded by the department under Subsection (q) [~~this section~~] shall remain impounded until [~~such time as~~] the administrative penalties imposed against the person are remitted to the department, except that an impounded commercial motor vehicle left at a vehicle storage facility controlled by the department or any other person shall be considered an abandoned motor vehicle on the 11th day after the date of impoundment if the delinquent administrative penalty is not remitted to the department before that day. Chapter 683 applies to the commercial motor vehicle, except that the department is entitled to receive from the proceeds of the sale the amount of the delinquent administrative penalty and costs.

(s) [~~(h)~~] All costs associated with the towing and storage of the commercial motor vehicle and load shall be the responsibility of the person and not the department or the State of Texas.

(t) A proceeding under this section is subject to Chapter 2001, Government Code.

SECTION ____.05. Section 644.155, Transportation Code, is amended to read as follows:

Sec. 644.155. COMPLIANCE REVIEW AND SAFETY AUDIT PROGRAM. The department shall implement and enforce a compliance review and safety audit program similar to the federal program established under 49 C.F.R. Part 385 for any person who owns or operates a commercial motor vehicle that is domiciled in this state.

SECTION ____.06. Subsection (a), Section 683.002, Transportation Code, is amended to read as follows:

(a) For the purposes of this chapter, a motor vehicle is abandoned if the motor vehicle:

- (1) is inoperable, is more than five years old, and has been left unattended on public property for more than 48 hours;
- (2) has remained illegally on public property for more than 48 hours;
- (3) has remained on private property without the consent of the owner or person in charge of the property for more than 48 hours;
- (4) has been left unattended on the right-of-way of a designated county, state, or federal highway for more than 48 hours; ~~or~~
- (5) has been left unattended for more than 24 hours on the right-of-way of a turnpike project constructed and maintained by the Texas Turnpike Authority division of the Texas Department of Transportation or a controlled access highway; or
- (6) is considered an abandoned motor vehicle under Section 644.153(r).

SECTION _____.07. Subsection (b), Section 683.012, Transportation Code, is amended to read as follows:

(b) The notice under Subsection (a) must:

(1) be sent by certified mail not later than the 10th day after the date the agency:

(A) takes the abandoned motor vehicle, watercraft, or outboard motor into custody; or

(B) receives the report under Section 683.031;

(2) specify the year, make, model, and identification number of the item;

(3) give the location of the facility where the item is being held;

(4) inform the owner and lienholder of the right to claim the item not later than the 20th day after the date of the notice on payment of:

(A) towing, preservation, and storage charges; or

(B) garagekeeper's charges and fees under Section 683.032 and, if the vehicle is a commercial motor vehicle impounded under Section 644.153(q), the delinquent administrative penalty and costs; and

(5) state that failure of the owner or lienholder to claim the item during the period specified by Subdivision (4) is:

(A) a waiver by that person of all right, title, and interest in the item; and

(B) consent to the sale of the item at a public auction.

SECTION _____.08. Section 683.015, Transportation Code, is amended by adding Subsection (e) to read as follows:

(e) If the vehicle is a commercial motor vehicle impounded under Section 644.153(q), the Department of Public Safety is entitled from the proceeds of the sale to an amount equal to the amount of the delinquent administrative penalty and costs.

SECTION _____.09. (a) This Article takes effect September 1, 2003.

(b) The changes in law made in Section _____.04 of this Article apply only to an administrative penalty for a violation that occurs on or after the effective date of this article.

(c) An administrative penalty for a violation that occurred before the effective date of this article is governed by the law in effect at the time of the violation, and the former law is continued in effect for that purpose.

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

Senator West offered the following amendment to the bill:

Floor Amendment No. 33 on Third Reading

Amend **CSHB 3588** (Senate committee printing) by adding the following appropriately numbered SECTIONS to ARTICLE 12 of the bill and renumbering the remaining SECTIONS of the ARTICLE accordingly:

SECTION _____. Section 681.001, Transportation Code, is amended by adding Subdivision (7) to read as follows:

(7) "Stand" or "standing" means to halt an occupied or unoccupied vehicle, other than temporarily while receiving or discharging passengers.

SECTION _____. Section 681.011, Transportation Code, is amended by amending Subsections (a)-(c), (e), and (m) to read as follows:

(a) A person commits an offense if:

(1) the person stands [~~parks~~] a vehicle on which are displayed license plates issued under Section 502.253 or 502.254 or a disabled parking placard in a parking space or area designated specifically for persons with disabilities by:

(A) a political subdivision; or

(B) a person who owns or controls private property used for parking as to which a political subdivision has provided for the application of this section under Subsection (f); and

(2) the standing [~~parking~~] of the vehicle in that parking space or area is not authorized by Section 681.006, 681.007, or 681.008.

(b) A person commits an offense if the person:

(1) stands [~~parks~~] a vehicle on which license plates issued under Section 502.253 or 502.254 are not displayed and a disabled parking placard is not displayed in a parking space or area designated specifically for individuals with disabilities by:

(A) a political subdivision; or

(B) a person who owns or controls private property used for parking as to which a political subdivision has provided for the application of this section under this Subsection (f); or

(2) stands [~~parks~~] a vehicle displaying a white on red shield disabled parking placard or license plates issued under Section 502.253 in a space designated under Section 681.009(e) for the exclusive use of vehicles displaying a white on blue shield disabled parking placard.

(c) A person commits an offense if the person stands [~~parks~~] a vehicle so that the vehicle blocks an architectural improvement designed to aid persons with disabilities, including an access aisle or curb ramp.

(e) In a prosecution under this section, it is presumed that the registered owner of the motor vehicle is the person who left [~~parked~~] the vehicle standing at the time and place the offense occurred.

(m) A person commits an offense if the person:

(1) ~~stands [parks]~~ a vehicle on which are displayed license plates issued under Section 502.253 or a disabled parking placard in a parking space or area for which this chapter creates an exemption from payment of a fee or penalty imposed by a governmental unit;

(2) does not have a disability;

(3) is not transporting a person with disability; and

(4) does not pay any applicable fee related to ~~standing [parking]~~ in the space or area imposed by a governmental unit or exceeds a limitation on the length of time for ~~standing [parking]~~ in the space or area.

SECTION _____. (a) The change in law made by this Act to Sections 681.001 and 681.011, Transportation Code, apply only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(b) An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

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

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

CSHB 3588 as again amended was finally passed by the following vote: Yeas 31, Nays 0.

COMMITTEE SUBSTITUTE HOUSE BILL 2292 ON THIRD READING

Senator Nelson moved to suspend the regular order of business to take up for consideration **CSHB 2292** at this time on its third reading and final passage:

CSHB 2292, Relating to the provision of health and human services in this state, including the powers and duties of the Health and Human Services Commission and other state agencies; providing penalties.

POINT OF ORDER

Senator Barrientos raised a point of order against further consideration of **CSHB 2292** due to alleged inaccuracies while the bill was in the Committee on Finance.

POINT OF ORDER RULING

The Presiding Officer, Senator Armbrister in Chair, stated that the point of order was respectfully overruled.

Senator Barrientos then moved that **CSHB 2292** be read in full.

The motion was lost by the following vote: Yeas 7, Nays 24.

Yeas: Barrientos, Gallegos, Hinojosa, Lucio, Madla, Shapleigh, Van de Putte.

Nays: Armbrister, Averitt, Bivins, Brimer, Carona, Deuell, Duncan, Ellis, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Ratliff, Shapiro, Staples, Wentworth, West, Whitmire, Williams, Zaffirini.

Senator Nelson again moved to suspend the regular order of business to take up for consideration **CSHB 2292** at this time on its third reading and final passage.

The motion prevailed by the following vote: Yeas 21, Nays 10.

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

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

The bill was read third time.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **CSHB 2292** in Section 2.148, page 98, line 38, between "rate" and "and" by inserting the following:

", the state's entitlement to federal Medicaid matching funds,"

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

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 2 on Third Reading

Amend **CSHB 2292** (Senate committee printing) as follows:

(1) In Section 2.04 of the bill, in proposed Section 531.0335(a), Government Code (page 32, lines 41 through 43), strike Subdivision (2) and substitute the following:

(2) "Punitive action" includes a finding that a person responsible for a child's care, custody, or welfare has abused or neglected a child.

(2) In Section 2.04 of the bill, in proposed Section 531.0335(b), Government Code (page 32, line 49), between "Code" and the period, insert ", if the child is not exempt under that section".

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

Floor Amendment No. 3 on Third Reading was temporarily not offered.

Floor Amendment No. 3A on Third Reading was temporarily not offered.

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 4 on Third Reading

Amend **CSHB 2292** as follows:

1) On page 78, by striking the new language on lines 13-16

2) On page 78, line 29, delete "and"

3) On page 78, line 32, delete the period after the word "program" and insert "and"

4) On page 78, between lines 32 and 33, add a new subdivision (i)(4) to read as follows:

(4) establish a funding process to provide incentives for increasing direct care staff and direct care wages and benefits in accordance with appropriations provided.

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

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 5 on Third Reading

Amend **CSHB 2292** (Senate committee printing) as follows:

(1) In SECTION 1.03 of the bill, strike amended Section 531.0055(e), Government Code (page 3, lines 26-45), and substitute the following:

(e) Notwithstanding any other law, the executive commissioner, as necessary to perform the functions described by Subsections (b), (c), and (d) in implementation of the policies established for a health and human services agency by the agency director [~~each agency's policymaking body~~], shall:

(1) manage and direct the operations of each health and human services agency; [~~and~~]

(2) supervise and direct the activities of each agency director; and

(3) be responsible for the administrative supervision of the internal audit program for all health and human services agencies, including:

(A) selecting the director of internal audit;

(B) ensuring that the director of internal audit reports directly to the executive commissioner; and

(C) ensuring the independence of the internal audit function.

(2) In SECTION 1.03 of the bill, strike amended Section 531.0055(1), Government Code (page 4, lines 33-43), and substitute the following:

(1) Notwithstanding any other provision of this section, an agency director [~~a policymaking body~~] has the authority provided by law to adopt policies and rules governing the delivery of services to persons who are served by the agency and the rights and duties of persons who are served or regulated by the agency. The executive commissioner and each agency director [~~policymaking body~~] shall enter into a memorandum of understanding that clearly defines:

(1) the policymaking authority of the agency director [~~policymaking body~~]; and

(2) the operational authority of the executive commissioner.

(3) Immediately following SECTION 1.04 of the bill (page 5, between lines 13 and 14), insert the following:

SECTION 1.04A. Section 531.0057(a), Government Code, is amended to read as follows:

(a) Notwithstanding any other law, a health and human services agency must notify the executive commissioner before implementing [~~proposing~~] a rule adopted by the commissioner of that agency. A rule a health and human services agency attempts to implement [~~adopted~~] in violation of this section is void.

(4) In SECTION 1.06 of the bill, in proposed Section 531.0161(a)(1), Government Code (page 5, line 61), strike "commission rules" and substitute "rules for the commission and each agency".

(5) In SECTION 1.07 of the bill, in proposed Section 531.0224(2), Government Code (page 6, lines 46-48), strike "in consultation with the policy councils of the agencies that operate the program.".

(6) Immediately following SECTION 1.07 of the bill (page 6, between lines 52 and 53), insert the following:

SECTION 1.07A. Section 531.034, Government Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) The executive commissioner [~~commission~~] shall review all [~~proposed~~] rules adopted by a [~~of~~] health and human services agency [~~agencies~~] and shall notify the [~~an~~] agency before a rule takes effect [~~within the designated review period for a proposed rule~~] if the executive commissioner [~~commission~~] requires repeal [~~withdrawal~~] or amendment of the [~~proposed~~] rule. On notification by the executive commissioner [~~commission~~], the agency shall repeal the rule and, if applicable, [either withdraw or] amend the rule and adopt [resubmit] the amended [proposed] rule. A health and human services agency may not implement a rule adopted by the agency until the executive commissioner reviews and approves the rule.

(e) The executive commissioner shall report to the governor and the legislature each rule adopted by a health and human services agency that is reviewed and approved by the executive commissioner.

(7) In SECTION 1.09 of the bill, in proposed Section 1001.021(a), Health and Safety Code (page 8, line 46), strike "executive".

(8) In SECTION 1.09 of the bill, in proposed Section 1001.021(c), Health and Safety Code (page 8, line 55), between "executive commissioner" and "regarding", insert "and the commissioner".

(9) In SECTION 1.09 of the bill, in proposed Section 1001.023(b)(4), Health and Safety Code (page 9, line 22), between "department" and the underlined comma, insert "and the rules of the commissioner".

(10) In SECTION 1.09 of the bill, in proposed Section 1001.028(a), Health and Safety Code (page 9, line 60), strike "executive".

(11) In SECTION 1.09 of the bill, in proposed Section 1001.028(b), Health and Safety Code (page 9, line 66), strike "executive".

(12) In SECTION 1.09 of the bill, in proposed Section 1001.029(a), Health and Safety Code (page 10, line 2), strike "executive".

(13) In SECTION 1.09 of the bill, in proposed Section 1001.029(a), Health and Safety Code (page 10, line 4), strike "commission or the executive".

(14) In SECTION 1.09 of the bill, in proposed Section 1001.029(b), Health and Safety Code (page 10, line 6), strike "executive".

(15) In SECTION 1.09 of the bill, in proposed Section 1001.029(b), Health and Safety Code (page 10, line 8), strike "executive".

(16) In SECTION 1.09 of the bill, in proposed Section 1001.029(c), Health and Safety Code (page 10, line 13), strike "executive".

(17) In SECTION 1.09 of the bill, strike proposed Section 1001.030, Health and Safety Code (page 10, lines 15-21), and substitute the following:

Sec. 1001.030. POLICYMAKING AND MANAGEMENT RESPONSIBILITIES. The commissioner, with the advice of the council, shall develop and the department shall implement policies that clearly delineate the policymaking responsibilities of the commissioner from the management responsibilities of the department and the staff of the department.

(18) In SECTION 1.09 of the bill, in proposed Section 1001.052(d), Health and Safety Code (page 10, line 56), strike "executive".

(19) In SECTION 1.09 of the bill, in proposed Section 1001.075, Health and Safety Code (page 12, line 61), strike "executive".

(20) In SECTION 1.11 of the bill, in amended Section 40.002(e), Human Resources Code (page 13, line 47), strike "executive".

(21) In SECTION 1.12 of the bill, in amended Section 40.004(a), Human Resources Code (page 13, line 56), strike "executive".

(22) In SECTION 1.12 of the bill, in amended Section 40.004(a), Human Resources Code (page 13, line 58), strike "commission or executive".

(23) In SECTION 1.12 of the bill, in amended Section 40.004(b), Human Resources Code (page 13, line 60), strike "executive".

(24) In SECTION 1.12 of the bill, in proposed Section 40.004(c), Human Resources Code (page 13, line 65), strike "executive".

(25) In SECTION 1.12 of the bill, in proposed Section 40.004(c), Human Resources Code (page 13, line 67), strike "executive".

(26) In SECTION 1.12 of the bill, in proposed Section 40.004(d), Human Resources Code (page 14, line 3), strike "executive".

(27) In SECTION 1.12 of the bill, in amended Section 40.021(a), Human Resources Code (page 14, line 7), strike "executive".

(28) In SECTION 1.12 of the bill, in amended Section 40.021(c), Human Resources Code (page 14, line 22), between "executive commissioner" and "regarding", insert "and the commissioner".

(29) In SECTION 1.12 of the bill, in amended Section 40.0226(b)(4), Human Resources Code (page 15, line 15), between "department" and the comma, insert "and the rules of the commissioner".

(30) In SECTION 1.13 of the bill, in proposed Section 117.021(a), Human Resources Code (page 16, line 31), strike "executive".

(31) In SECTION 1.13 of the bill, in proposed Section 117.021(c), Human Resources Code (page 16, line 41), between "executive commissioner" and "regarding", insert "and the commissioner".

(32) In SECTION 1.13 of the bill, in proposed Section 117.023(b)(4), Human Resources Code (page 17, line 8), between "department" and the underlined comma, insert "and the rules of the commissioner".

(33) In SECTION 1.13 of the bill, in proposed Section 117.028(a), Human Resources Code (page 17, line 46), strike "executive".

(34) In SECTION 1.13 of the bill, in proposed Section 117.028(b), Human Resources Code (page 17, line 52), strike "executive".

(35) In SECTION 1.13 of the bill, in proposed Section 117.029(a), Human Resources Code (page 17, line 57), strike "executive".

(36) In SECTION 1.13 of the bill, in proposed Section 117.029(a), Human Resources Code (page 17, line 59), strike "commission or the executive".

(37) In SECTION 1.13 of the bill, in proposed Section 117.029(b), Human Resources Code (page 17, line 61), strike "executive".

(38) In SECTION 1.13 of the bill, in proposed Section 117.029(b), Human Resources Code (page 17, line 63), strike "executive".

(39) In SECTION 1.13 of the bill, in proposed Section 117.029(c), Human Resources Code (page 17, line 68), strike "executive".

(40) In SECTION 1.13 of the bill, strike proposed Section 117.030, Human Resources Code (page 18, lines 1-7), and substitute the following:

Sec. 117.030. POLICYMAKING AND MANAGEMENT RESPONSIBILITIES. The commissioner, with the advice of the council, shall develop and the department shall implement policies that clearly delineate the policymaking responsibilities of the commissioner from the management responsibilities of the department and the staff of the department.

(41) In SECTION 1.13 of the bill, in proposed Section 117.052(d), Human Resources Code (page 18, line 42), strike "executive".

(42) In SECTION 1.13 of the bill, in proposed Section 117.073, Human Resources Code (page 19, line 54), strike "executive".

(43) In SECTION 1.13A of the bill, in proposed Section 161.021(a), Human Resources Code (page 20, line 16), strike "executive".

(44) In SECTION 1.13A of the bill, in proposed Section 161.021(c), Human Resources Code (page 20, line 25), between "executive commissioner" and "regarding", insert "and the commissioner".

(45) In SECTION 1.13A of the bill, in proposed Section 161.023(b)(4), Human Resources Code (page 20, line 61), between "department" and the underlined comma, insert "and the rules of the commissioner".

(46) In SECTION 1.13A of the bill, in proposed Section 161.028(a), Human Resources Code (page 21, line 30), strike "executive".

(47) In SECTION 1.13A of the bill, in proposed Section 161.028(b), Human Resources Code (page 21, line 36), strike "executive".

(48) In SECTION 1.13A of the bill, in proposed Section 161.029(a), Human Resources Code (page 21, line 41), strike "executive".

(49) In SECTION 1.13A of the bill, in proposed Section 161.029(a), Human Resources Code (page 21, line 43), strike "commission or the executive".

(50) In SECTION 1.13A of the bill, in proposed Section 161.029(b), Human Resources Code (page 21, line 45), strike "executive".

(51) In SECTION 1.13A of the bill, in proposed Section 161.029(b), Human Resources Code (page 21, line 47), strike "executive".

(52) In SECTION 1.13A of the bill, in proposed Section 161.029(c), Human Resources Code (page 21, line 52), strike "executive".

(53) In SECTION 1.13A of the bill, strike proposed Section 161.030, Human Resources Code (page 21, lines 54-60), and substitute the following:

Sec. 161.030. POLICYMAKING AND MANAGEMENT RESPONSIBILITIES. The commissioner, with the advice of the council, shall develop and the department shall implement policies that clearly delineate the policymaking responsibilities of the commissioner from the management responsibilities of the department and the staff of the department.

(54) In SECTION 1.13A of the bill, in proposed Section 161.052(d), Human Resources Code (page 22, line 26), strike "executive".

(55) In SECTION 1.13A of the bill, in proposed Section 161.073, Human Resources Code (page 24, line 12), strike "executive".

(56) At the end of SECTION 1.18(a)(2)(E) of the bill (page 25, line 42), insert "and".

(57) At the end of SECTION 1.18(a)(3) of the bill (page 25, line 49), strike "; and" and substitute ".".

(58) Strike SECTION 1.18(a)(4) of the bill (page 25, lines 50-51).

(59) In SECTION 1.19(a) of the bill (page 26, line 32), strike "rulemaking or policymaking or".

(60) In SECTION 1.19(c) of the bill (page 26, lines 68-69), strike "executive commissioner of the Health and Human Services Commission" and substitute "commissioner of state health services".

(61) In SECTION 1.19(d) of the bill (page 27, lines 5-7), strike "Health and Human Services Commission or the executive commissioner of the Health and Human Services Commission." and substitute "Department of State Health Services or the commissioner of state health services, as appropriate."

(62) In SECTION 1.20(a) of the bill (page 27, line 18), strike "rulemaking or policymaking or".

(63) In SECTION 1.20(c) of the bill (page 27, lines 59-60), strike "executive commissioner of the Health and Human Services Commission." and substitute "commissioner of family and protective services."

(64) In SECTION 1.20(d) of the bill (page 27, lines 66-67), strike "Health and Human Services Commission or the executive commissioner of the Health and Human Services Commission." and substitute "Department of Family and Protective Services or the commissioner of family and protective services, as appropriate."

(65) In SECTION 1.21(a) of the bill (page 28, line 9), strike "rulemaking or policymaking or".

(66) In SECTION 1.21(c) of the bill (page 28, lines 47-48), strike "executive commissioner of the Health and Human Services Commission." and substitute "commissioner of assistive and rehabilitative services."

(67) In SECTION 1.21(d) of the bill (page 28, lines 54-55), strike "Health and Human Services Commission or the executive commissioner of the Health and Human Services Commission." and substitute "Department of Assistive and Rehabilitative Services or the commissioner of assistive and rehabilitative services, as appropriate."

(68) Strike SECTION 1.28(1) of the bill (page 31, lines 16-17).

(69) In SECTION 1.28 of the bill (page 31, line 18), strike "(2)" and substitute "(1)".

(70) In SECTION 1.28 of the bill (page 31, line 20), strike "(3)" and substitute "(2)".

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

Floor Amendment No. 6 on Third Reading was not offered.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 7 on Third Reading

Amend **CSHB 2292** (Senate committee printing) by adding the following appropriately numbered SECTION to Article 2 of the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.02113 to read as follows:

Sec. 531.02113. RECOVERY OF MEDICAL ASSISTANCE. (a) The commissioner shall ensure that the state Medicaid program implements 42 U.S.C. Section 1396p(b)(1).

(b) The Medicaid account is an account in the general revenue fund. Any amounts recovered by implementing 42 U.S.C. Section 1396p(b)(1) shall be deposited in the Medicaid account. Money in the Medicaid account may be appropriated only to fund long-term care, including community-based and facility-based care.

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

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 8 on Third Reading

Amend **CSHB 2292**, immediately following Section 1.08 of the bill (Senate committee printing, page 8, between lines 21 and 22), by inserting the following:

SECTION 1.08A. (a) Subtitle I, Title 4, Government Code, is amended by adding Chapter 534 to read as follows:

CHAPTER 534. COMMISSION FOR STATE
HEALTH EXPENDITURES

Sec. 534.001. DEFINITIONS. In this chapter:

(1) "Commission" means the Commission for State Health Expenditures.

(2) "Commissioner" means the commissioner for state health expenditures.

Sec. 534.002. COMMISSION FOR STATE HEALTH EXPENDITURES. The Commission for State Health Expenditures is an agency of the state.

Sec. 534.003. SUNSET PROVISION. The commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2013.

Sec. 534.004. COMMISSIONER. (a) The commission is under the direction of a commissioner.

(b) The commissioner is appointed by the governor with the advice and consent of the senate. The appointment of a commissioner shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

(c) A person is not eligible for appointment to the office of commissioner if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the commission;

(2) owns or controls, directly or indirectly, any interest in a business entity or other organization receiving funds from the commission; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the commission, other than compensation or reimbursement authorized by law for the commissioner.

(d) The commissioner may not work for any agency or office of the state other than the commission and may not perform duties for any other state agency or office that could negatively affect the performance of the commissioner's duties as commissioner.

(e) It is a ground for removal from office if the commissioner:

(1) is disqualified for the position under Subsection (c) or engages in an activity after appointment that, under Subsection (c), would have disqualified the person for appointment to the position;

(2) violates a prohibition established by Subsection (d) or Section 534.006;

or

(3) cannot, because of illness or disability, discharge the commissioner's duties.

(f) The validity of an action of the commissioner or the commission is not affected by the fact that it is taken when a ground for removal of the commissioner exists.

Sec. 534.005. STAFF. (a) The commissioner may employ personnel necessary to administer the responsibilities of the commission.

(b) Compensation authorized by law for personnel employed under Subsection (a) may not exceed \$200,000 per employee.

(c) The commissioner or the commissioner's designee shall provide to commission employees, as often as necessary, information regarding their qualifications for employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state employees.

(d) The commissioner or the commissioner's designee shall prepare and maintain a written policy statement to ensure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies that are in compliance with the requirements of Chapter 21, Labor Code; and

(2) a comprehensive analysis of the commission workforce that meets federal and state guidelines.

(e) A policy statement prepared under Subsection (d) must cover a biennial period and:

(1) be updated biennially;

(2) be reviewed by the Commission on Human Rights for compliance with Subsection (d)(1); and

(3) be filed with the governor's office.

(f) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (e). The report may be made separately or as a part of other biennial reports made to the legislature.

Sec. 534.006. CONFLICTS OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide 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 serve as the commissioner and may not be a commission employee if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of business, insurance, or health and human services; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of business, insurance, or health and human services.

(c) A person may not serve as the commissioner and may not be a commission employee if the person is required to register as a lobbyist under Chapter 305.

Sec. 534.007. GENERAL DUTY OF COMMISSION. The commission shall conduct an in-depth analysis of health expenditures funded by this state to:

(1) determine the long-term needs of the state's health care systems and recommend policy priorities for the state and elected state officials;

(2) identify critical problems in the state's health care systems and recommend strategies to solve those problems;

(3) assess the cost-effectiveness of the use of federal, state, and local money in the state's health care expenditures;

(4) advise and assist the legislature in developing plans, programs, and proposed legislation to:

(A) improve the effectiveness of the state's health care systems; and

(B) identify in the state's health care systems:

(i) potential cost saving measures;

(ii) innovative practices and best practices;

(iii) efficiency in delivery of care; and

(iv) evidence-based models of care;

(5) calculate daily costs and compare interagency costs on services provided by agencies that are a part of the state's health care systems;

(6) calculate relevant populations for use in planning for the long-term needs of the state's health care systems;

(7) determine the long-term information needs of the state's health care systems and acquire information to meet those needs; and

(8) engage in other activities consistent with the responsibilities of the commission.

Sec. 534.008. CONSULTATION WITH GOVERNOR AND LEGISLATIVE OFFICIALS. In setting the priorities for research projects of the commission, the commissioner shall consult the governor, lieutenant governor, speaker of the house of representatives, and presiding officer of each standing committee of the senate and house of representatives having jurisdiction over state health expenditures.

Sec. 534.009. ACCESS TO PROGRAMS AND FACILITIES. The commission shall comply with federal and state laws related to program and facility accessibility.

(b) This section 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, this section takes effect September 1, 2003.

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

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 9 on Third Reading

Amend **CSHB 2292** on page 91, line 57, after the "(d)" and before the "The" insert the following:

"Taking into account the demographics of the various regions of the state, [The] the"

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

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 10 on Third Reading

Amend **CSHB 2292** (Senate committee printing) by adding the following appropriately numbered SECTION to Article 2 of the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. (a) Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.057 to read as follows:

Sec. 32.057. CONSUMER-DIRECTED SERVICES PROGRAM. (a) In this section:

(1) "Consumer" means a participant in the consumer-directed services program established under this section who receives a stipend under the program.

(2) "Home and community-based services" include:

(A) personal care services;

(B) a home modification and assistive device that may increase the consumer's independence;

(C) respite services, as defined by Section 142.001, Health and Safety Code; and

(D) personal assistance services, as defined by Section 142.001, Health and Safety Code.

(3) "Medical assistance waiver program" means:

(A) the community-based alternatives program;

(B) the community living assistance and support services program;

(C) the deaf-blind/multiple disabilities program;

(D) the consolidated waiver pilot program; or

(E) the medically dependent children program.

(b) The department by rule shall establish a consumer-directed services program in which certain individuals enrolled in a medical assistance waiver program are given a monthly stipend to direct the delivery of home and community-based services provided to the individual under the waiver program.

(c) The department shall work in conjunction with the Texas Rehabilitation Commission, the comptroller, and any other appropriate agency to develop the consumer-directed services program.

(d) In establishing the consumer-directed services program, the department shall:

(1) ensure that the amount of a consumer's stipend is based on the assessed functional needs of a consumer and the financial resources available to the medical assistance waiver program providing services to the consumer;

(2) develop purchasing guidelines to assist consumers in using the stipend to purchase necessary and cost-effective home and community-based services;

(3) design the program in a manner in which a private entity or local governmental entity may apply with the department for approval to act as the fiscal intermediary for a consumer for the limited purpose of:

(A) managing the consumer's stipend;

(B) computing federal and state employment taxes;

(C) preparing and filing income tax forms and reports; and

(D) distributing money to a service provider;

(4) ensure that a consumer is the employer of and retains control over the selection, management, and dismissal of an individual providing home and community-based services; and

(5) develop a system to monitor the program to ensure:

(A) adherence to existing applicable program standards;

(B) appropriate use of funds; and

(C) consumer satisfaction with the delivery of services.

(e) The Texas Rehabilitation Commission and comptroller shall provide information to the department as necessary to facilitate the development and implementation of the consumer-directed services program.

(f) The department may not implement the consumer-directed services program within the consolidated waiver pilot program before January 2, 2004.

(g) The department, in consultation with the Centers for Medicare and Medicaid Services, shall:

(1) determine which state or other government-funded programs are appropriate for inclusion in the consumer-directed services program; and

(2) provide for the inclusion of cost-sharing provisions as practicable.

(h) Not later than February 1 of each year, the department shall submit to the governor, the lieutenant governor, and the clerks of the standing committees of the senate and house of representatives with primary jurisdiction over long-term care services a report on the effectiveness, including the cost-effectiveness, of the consumer-directed services program. The report must include recommendations for improvements to the program.

(i) This section expires September 1, 2007.

(b) The state agency responsible for implementing the consumer-directed services program required by Section 32.057, Human Resources Code, as added by this section, shall request and actively pursue any necessary waivers or authorizations from the Centers for Medicare and Medicaid Services or other appropriate entities to

enable the agency to implement the program not later than January 1, 2004. The agency may delay implementing the program until the necessary waivers or authorizations are granted.

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

Floor Amendment No. 11 on Third Reading was not offered.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 12 on Third Reading

Amend **CSHB 2292** as follows:

On page 91, Section 2.122 delete subsections (d), (e), (f) and (g)

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

Senator Janek offered the following amendment to the bill:

Floor Amendment No. 13 on Third Reading

Amend **CSHB 2292** (Senate committee printing) by adding the following appropriately numbered SECTIONS to Article 2 of the bill and renumbering subsequent SECTIONS of the bill accordingly:

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

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

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

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

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

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

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

(6) procedures for recipient outreach and education;

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

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

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

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

(11) a requirement that the managed care organization's usages of out-of-network providers or groups of out-of-network providers may not exceed limits for those usages relating to total inpatient admissions, total outpatient services, and emergency room admissions determined by the commission; and

(12) a requirement that a managed care organization reimburse an out-of-network provider for health care services at a rate that is equal to the allowable rate for those services, as determined under Sections 32.028 and 32.0281, Human Resources Code, unless a different out-of-network payment rate is negotiated with the out-of-network provider.

(b) In accordance with Subsection (a)(12), all post-stabilization services provided by an out-of-network provider must be reimbursed by the managed care organization at the allowable rate for those services until the managed care organization arranges for the timely transfer of the recipient, as determined by the recipient's attending physician, to a provider in the network or until an out-of-network payment rate is negotiated with the out-of-network provider. A managed care organization may not refuse to reimburse an out-of-network provider for emergency or post-stabilization services provided as a result of the managed care organization's failure to arrange for and authorize a timely transfer of a recipient.

SECTION _____. Section 533.007, Government Code, is amended by adding Subsections (g), (h), (i), (j), and (k) to read as follows:

(g) To ensure appropriate access to an adequate provider network, each managed care organization that contracts with the commission to provide health care services to recipients in a health care service region shall submit to the commission, in the format and manner prescribed by the commission, a report detailing the number, type, and scope of services provided by out-of-network providers to recipients enrolled in a managed care plan provided by the managed care organization. If, as determined by the commission, a managed care organization exceeds maximum limits established by the commission for out-of-network access to health care services, or if, based on an investigation by the commission of a provider complaint regarding reimbursement, the commission determines that a managed care organization did not reimburse an out-of-network provider based on a reasonable reimbursement methodology, the commission shall initiate a corrective action plan requiring the managed care organization to maintain an adequate provider network, provide reimbursement to support that network, and educate recipients enrolled in managed care plans provided by the managed care organization regarding the proper use of the provider network under the plan.

(h) The corrective action plan required by Subsection (g) must include at least one of the following elements:

(1) a requirement that reimbursements paid by the managed care organization to out-of-network providers for a health care service provided to a recipient enrolled in a managed care plan provided by the managed care organization equal the allowable rate for the service, as determined under Sections 32.028 and 32.0281, Human Resources Code, for all health care services provided during the period:

(A) the managed care organization is not in compliance with the utilization benchmarks determined by the commission; or

(B) the managed care organization is not reimbursing out-of-network providers based on a reasonable methodology, as determined by the commission;

(2) an immediate freeze on the enrollment of additional recipients in a managed care plan provided by the managed care organization, to continue until the commission determines that the provider network under the managed care plan can adequately meet the needs of additional recipients; and

(3) other actions the commission determines are necessary to ensure that recipients enrolled in a managed care plan provided by the managed care organization have access to appropriate health care services and that providers are properly reimbursed for providing medically necessary health care services to those recipients.

(i) Not later than the 60th day after the date a provider files a complaint with the commission regarding reimbursement for or overuse of out-of-network providers by a managed care organization, the commission shall provide to the provider a report regarding the conclusions of the commission's investigation. The report must include:

(1) a description of the corrective action, if any, required of the managed care organization that was the subject of the complaint; and

(2) if applicable, a conclusion regarding the amount of reimbursement owed to an out-of-network provider.

(j) If, after an investigation, the commission determines that additional reimbursement is owed to a provider, the managed care organization shall, not later than the 90th day after the date the provider filed the complaint, pay the additional reimbursement or provide to the provider a reimbursement payment plan under which the managed care organization must pay the entire amount of the additional reimbursement not later than the 120th day after the date the provider filed the complaint. If the managed care organization does not pay the entire amount of the additional reimbursement on or before the 90th day after the date the provider filed the complaint, the commission may require the managed care organization to pay interest on the unpaid amount. If required by the commission, interest accrues at a rate of 18 percent simple interest per year on the unpaid amount from the 90th day after the date the provider filed the complaint until the date the entire amount of the additional reimbursement is paid.

(k) The commission shall pursue any appropriate remedy authorized in the contract between the managed care organization and the commission if the managed care organization fails to comply with a corrective action plan under Subsection (g).

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

Floor Amendment No. 14 on Third Reading was not offered.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 15 on Third Reading

Amend **CSHB 2292** (committee printing, pages 67-68) by striking SECTION 2.75 and renumbering the subsequent SECTIONS of the bill accordingly.

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

Floor Amendment No. 16 on Third Reading was not offered.

Floor Amendment No. 17 on Third Reading was temporarily not offered.

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 18 on Third Reading

Amend **CSHB 2292** in Article 1, Section 1.13A of the bill, in the added title heading to Title 11, Human Resources Code (Senate committee printing, page 19, line 61), by striking "COMMUNITY-BASED AND LONG-TERM CARE SERVICES" and substituting "AGING, COMMUNITY-BASED, AND LONG-TERM CARE SERVICES".

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

Senator Janek offered the following amendment to the bill:

Floor Amendment No. 19 on Third Reading

Amend **CSHB 2292** in SECTION 2.14 of the bill, in proposed Section 531.073, Government Code (Senate committee printing, page 38, between lines 16 and 17), by inserting the following:

(a-2) Not later than the 30th day before the date on which prior authorization requirements are implemented, the commission shall post on the Internet to consumers and providers:

(1) a notification of the implementation date; and

(2) a detailed description of the procedures to be used in obtaining prior authorization.

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

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 20 on Third Reading

Amend **CSHB 2292** in Article 2 of the bill, by striking Section 2.70 (Senate committee printing, page 65, lines 11-29).

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

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 17 on Third Reading

Amend **CSHB 2292** (Senate committee printing), in ARTICLE 2 of the bill, by inserting appropriately numbered SECTIONS to read as follows and renumber existing SECTIONS accordingly:

SECTION 2. _____. (a) Section 1551.002, Insurance Code, as effective June 1, 2003, is amended to read as follows:

Sec. 1551.002. PURPOSES. The purposes of this chapter are to:

(1) provide uniformity in life, accident, and health benefit coverages for all state officers and employees and their dependents;

(2) enable the state to attract and retain competent and able employees by providing employees and their dependents with life, accident, and health benefit coverages at least equal to those commonly provided in private industry;

(3) foster, promote, and encourage employment by and service to the state as a career profession for individuals of high standards of competence and ability;

(4) recognize and protect the state's investment in each permanent employee by promoting and preserving economic security and good health among employees and their dependents;

(5) foster and develop high standards of employer-employee relationships between the state and its employees; ~~and~~

(6) recognize the long and faithful service and dedication of state officers and employees and encourage them to remain in state service until eligible for retirement by providing health benefits for them and their dependents; and

(7) recognize the service to the state by employees of community centers by extending to them and their dependents the same life, health, and accident benefit coverages as those provided under this chapter to state employees, retired state employees, and their dependents.

(b) Subchapter C, Chapter 1551, Insurance Code, as effective June 1, 2003, is amended by adding Section 1551.115 to read as follows:

Sec. 1551.115. PARTICIPATION BY COMMUNITY CENTERS. (a) A community center established under Subchapter A, Chapter 534, Health and Safety Code, may participate in the group insurance program administered by the board of trustees under this chapter. Participation under this section is limited to the active employees of the community center and the eligible dependents of the active employees of the community center.

(b) Each full-time active employee of a participating community center is automatically covered by the basic coverage for employees unless the employee specifically waives coverage or unless the employee is expelled from the program. Each part-time active employee of a participating community center is eligible to participate in the group insurance program on application in the manner provided by the board of trustees, unless the employee has been expelled from the program. A participating community center shall notify each of its part-time employees of the employee's eligibility for participation.

(c) An employee described by this section is not eligible to receive a state contribution for premiums. The board of trustees of the participating community center is responsible for payment of the contributions and any administrative fees that the state would make or pay if the community center employees were state employees. Each covered employee shall pay that portion of the cost of group coverages selected by the employee that exceeds the amount of board of trustees contributions. The participating community center is also responsible for payment of all administrative costs associated with the center's employees.

(d) All contributions received under this section from community centers and active employees of community centers for basic, optional, and voluntary coverages under the group insurance program, including contributions for administrative fees

and costs, shall be paid into the employees life, accident, and health insurance and benefits fund and shall be used by the board of trustees to provide those coverages as provided by this chapter.

(e) A community center that elects to participate in the group insurance program must notify the board of trustees not later than December 31 of each year and shall transfer records relating to the employees benefit program described by Section 534.011, Health and Safety Code, as required by the board of trustees.

SECTION 2. _____. (a) The heading to Section 534.011, Health and Safety Code, is amended to read as follows:

Sec. 534.011. PERSONNEL; BENEFITS.

(b) Section 534.011, Health and Safety Code, is amended by amending Subsections (b)-(d) and adding Subsection (g) to read as follows:

(b) The board of trustees shall provide employees of the community center with appropriate rights and [;] privileges~~[,] and benefits~~.

(c) The board of trustees may provide appropriate benefits, including group benefits described by Subsection (g), to employees of the community center. The board of trustees may provide workers' compensation benefits.

(d) The board of trustees shall prescribe the number of employees and their salaries. The board of trustees may choose to set salaries and benefits, other than group benefits described by Subsection (g), in compliance with a market analysis or internal salary study. If an internal salary study is used, the board of trustees shall conduct the study in accordance with the guidelines established by the commissioner.

(g) Active employees of a community center are eligible to participate in the group insurance program under Chapter 1551, Insurance Code, as provided by Section 1551.115, Insurance Code.

SECTION 2. _____. (a) During the 2003-2004 state fiscal year, the Employees Retirement System of Texas shall develop a plan for the extension of benefits under the group insurance program to persons eligible for those benefits under Section 1551.115, Insurance Code, as added by this article. The system may employ persons as necessary to implement this subsection.

(b) Coverage under Section 1551.115, Insurance Code, as added by this article, shall begin with the 2004-2005 state fiscal year, but not later than September 1, 2004.

SECTION 2. _____. (a) Section 1551.002, Insurance Code, as amended by this article, and Section 1551.115, Insurance Code, as added by this article, take effect September 1, 2003. Section 534.011, Health and Safety Code, as amended by this article, takes effect September 1, 2004.

(b) The Employees Retirement System of Texas shall adopt rules as necessary to implement Section 1551.115, Insurance Code, as added by this article, not later than December 31, 2003.

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

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 21 on Third Reading

Amend **CSHB 2292** (Senate committee printing) by adding the following appropriately numbered SECTIONS to Article 2 of the bill and renumbering subsequent SECTIONS accordingly:

SECTION _____. Section 281.002, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c) A county with at least 190,000 inhabitants that has within its boundaries a municipality that owns a hospital or hospital system for indigent or needy persons that is operated by or on behalf of the municipality may create a countywide hospital district to assume ownership of the hospital or hospital system and to furnish medical aid and hospital care to indigent and needy persons residing in the district.

SECTION _____. Section 281.004, Health and Safety Code, is amended to read as follows:

Sec. 281.004. BALLOT PROPOSITIONS. (a) Except as provided by Subsection (a-1) or (b), the ballot for an election under this chapter shall be printed to provide for voting for or against the proposition: "The creation of a hospital district and the levy of a tax not to exceed 75 cents on each \$100 of the taxable value of property taxable by the district."

(a-1) The ballot for an election under this chapter held in a county with a population of more than 800,000 that is not included in the boundaries of a hospital district before September 1, 2003, shall be printed to provide for voting for or against the proposition: "The creation of a hospital district and the levy of a tax not to exceed 25 cents on each \$100 of the taxable value of property taxable by the district."

(b) If the county or a municipality in the county has any outstanding bonds issued for hospital purposes, the ballot for an election under this chapter shall contain the proposition prescribed by Subsection (a) or (a-1), as appropriate, followed by "~~be printed to provide for voting for or against the proposition: "The creation of a hospital district, the levy of a tax not to exceed 75 cents on each \$100 of the taxable value of property taxable by the district]~~, and the assumption by the district of all outstanding bonds previously issued for hospital purposes by _____ County and by any municipality in the county."

SECTION _____. Section 281.021, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) If a district is created under this chapter in a county with a population of more than 800,000 that was not included in the boundaries of a hospital district before September 1, 2003, the district shall be governed by a nine-member board of hospital managers, appointed as follows:

(1) the commissioners court of the county shall appoint four members;
(2) the governing body of the municipality with the largest population in the county shall appoint four members; and

(3) the commissioners court and the governing body of the municipality described by Subdivision (2) shall jointly appoint one member.

SECTION _____. Section 281.022, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c) The members of a board of hospital managers appointed under Section 281.021(d) serve staggered four-year terms, with as near as possible to one-fourth of the members' terms expiring each year. The terms of the members appointed under that section are as follows:

(1) the members appointed solely by the governing body of the municipality with the largest population in the county shall draw lots to determine which member serves a one-year term, which member serves a two-year term, which member serves a three-year term, and which member serves a four-year term;

(2) the members appointed solely by the commissioners court of the county shall draw lots to determine which member serves a one-year term, which member serves a two-year term, which member serves a three-year term, and which member serves a four-year term; and

(3) the member appointed jointly by the governing body of the municipality described by Subdivision (1) and the commissioners court serves a four-year term.

SECTION _____. Section 281.041, Health and Safety Code, is amended by amending Subsections (a) and (b) and adding Subsections (e) and (f) to read as follows:

(a) Except as provided by Subsection (e), on ~~On~~ the creation of a district under this chapter and the appointment and qualification of the district board, the county owning the hospital or hospital system, ~~or~~ the county and municipality jointly operating a hospital or hospital system, or the municipality owning a hospital or hospital system shall execute and deliver to the district board a written instrument conveying to the district the title to land, buildings, and equipment jointly or separately owned by the county and municipality and used to provide medical services or hospital care, including geriatric care, to indigent or needy persons of the county or municipality.

(b) On the creation of a district under this chapter and the appointment and qualification of the district board, the county owning the hospital or hospital system, ~~or~~ the county and municipality jointly operating a hospital or hospital system, or the municipality owning a hospital or hospital system shall, on the receipt of a certificate executed by the board's chairman stating that a depository for the district has been chosen and qualified, transfer to the district:

(1) all joint or separate county and municipal funds that are the proceeds of any bonds assumed by the district under Section 281.044; and

(2) all unexpended joint or separate county and municipal funds that have been established or appropriated by the county or municipality to support and maintain the hospital facilities for the year in which the district is created, to be used by the district to operate and maintain those facilities for the remainder of the year.

(e) A county or municipality transferring property or funds under this section is not required to transfer to the district:

(1) a medical facility used primarily for the treatment of inmates of a jail or any other correctional facilities, including juvenile justice facilities;

(2) property owned by the municipality that is used in connection with the provision of utility services, including electricity, water, wastewater, and sewer services;

(3) any real property or other assets related to a medical clinic facility on which construction has begun, but has not been completed, by the date on which the board members have been appointed and qualified to serve;

(4) a building and related land owned by the county or municipality that are used for purposes related or unrelated to the hospital or hospital system, except that:

(A) if the county or municipality retains ownership of the building and related land, the county or municipality shall lease the space used for hospital or hospital system purposes to the district for an initial term of three years unless a shorter term is otherwise agreed to by the district and the transferring entity; or

(B) if the county or municipality transfers the building and related land to the district, the district shall lease to the transferring entity the space not used for hospital or hospital system purposes for an initial term of three years unless a shorter term is otherwise agreed to by the district and the transferring entity;

(5) any or all of the public health services and related facilities of the county or municipality, other than a hospital or hospital district, unless the transfer of the public health services or a related facility to the district is mutually agreed to by the district and the transferring entity; or

(6) an ambulance service, emergency medical service, search and rescue service, or medical transport service that is owned or operated by the county or municipality, unless the transfer of all or part of the service and related buildings and equipment to the district is mutually agreed to by the district and the transferring entity.

(f) A transfer of an asset under this section, including a federally qualified health center, that would violate federal or state law unless a waiver or other authorization or approval is granted by a federal or state agency may not occur until the required waiver, authorization, or approval is obtained. A facility designated as a federally qualified health center under 42 U.S.C. Section 1396d(l)(2)(B), as amended, may not be transferred to the district until the district board has confirmed that the transfer will not jeopardize the federal designation of that facility.

SECTION _____. Section 281.043, Health and Safety Code, is amended to read as follows:

Sec. 281.043. ASSUMPTION OF CONTRACT OBLIGATIONS. On the creation of the district, the district assumes, without prejudice to the rights of third parties, any outstanding contract obligations legally incurred by the county or municipality, or both, for the construction, support, ~~or~~ maintenance, or operation of hospital facilities and the provision of health care services or hospital care, including mental health care, to indigent residents of the county or municipality before the creation of the district.

SECTION _____. Subchapter C, Chapter 281, Health and Safety Code, is amended by adding Section 281.0461 to read as follows:

Sec. 281.0461. STUDY. (a) This section applies only to a district created in a county with a population of more than 800,000 that was not included in the boundaries of a hospital district before September 1, 2003.

(b) The board shall contract with an independent and disinterested person or entity to conduct a study to:

(1) examine the necessity of increased indigent, pediatric, trauma, and mental health care in the geographical area served by the district over the 5-year, 15-year, and 30-year periods following the date of the district's creation;

(2) examine the necessity of an increased number of health care specialists and nurses to adequately serve the district over the 5-year, 15-year, and 30-year periods following the date of the district's creation; and

(3) determine whether additional education and training programs will be required to address the issues studied under this section.

SECTION _____. The heading to Subchapter G, Chapter 281, Health and Safety Code, is amended to read as follows:

SUBCHAPTER G. TAXES [~~TO PAY BONDS~~]

SECTION _____. Section 281.121(b), Health and Safety Code, is amended to read as follows:

(b) The tax amount:

(1) must be sufficient to create an interest and sinking fund to pay the principal of and interest on the bonds as they mature; and

(2) may not exceed 75 cents on each \$100 of the taxable value of property taxable by the district, or the rate authorized in the election to create the district.

SECTION _____. Subchapter G, Chapter 281, Health and Safety Code, is amended by adding Sections 281.122 and 281.123 to read as follows:

Sec. 281.122. REDUCTION IN AD VALOREM TAX RATE BY GOVERNMENTAL ENTITY. (a) This section applies only to a district created in a county with a population of more than 800,000 that was not included in the boundaries of a hospital district before September 1, 2003.

(b) The commissioners court of the county and the governing body of the municipality with the largest population in the county, in determining the ad valorem tax rate of the county or municipality, as appropriate, for the first year in which the district imposes ad valorem taxes on property in the district, shall:

(1) take into account the decrease in the amount the county or municipality will spend for health care purposes in that year because the district is providing health care services previously provided or paid for by the county or municipality; and

(2) reduce the ad valorem tax rate adopted for the county or municipality, as appropriate, in accordance with the amount of the decrease.

(c) The commissioners court of the county and the governing body of the municipality with the largest population in the county shall retain an independent auditor to verify that the ad valorem tax rate of the county or municipality, as appropriate, has been reduced as required by Subsection (b).

Sec. 281.123. SALES AND USE TAX PROHIBITED FOR CERTAIN DISTRICTS. (a) This section applies only to a district created in a county with a population of more than 800,000 that was not included in the boundaries of a hospital district before September 1, 2003.

(b) The board may not impose a sales and use tax under Subchapter E, Chapter 285, or any other law.

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

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 22 on Third Reading

Amend **CSHB 2292** by adding the following sections, appropriately numbered, and renumbering subsequent sections appropriately:

SECTION _____. Subchapter B, Chapter 531, Government Code, is amended by adding Section 531.063 to read as follows:

Sec. 531.063. FINANCIAL ASSISTANCE DIVERSION PROGRAM. (a) The commission and the Texas Workforce Commission, by rule, shall develop and implement a program to divert persons who have been determined to be eligible for financial assistance and services under Chapter 31, Human Resources Code, from public assistance to private employment.

(b) To be eligible for employment through a diversion program under this section, a person must:

(1) be a resident of this state;

(2) have been recently determined to be eligible for financial assistance and services under Chapter 31, Human Resources Code;

(3) not yet have begun to receive the financial assistance and services for which the person was recently determined to be eligible;

(4) agree to fulfill the terms of a work agreement with a participating private employer under which the person must work an average of at least 30 hours each week; and

(5) not have previously been an employee whose employment qualified a private employer for financial incentive payments through a diversion program under this section.

(c) A financial assistance diversion program under this section may provide to a participating private employer financial incentive payments of up to:

(1) \$150 each month, up to a total of not more than \$900 for each employee, after the employer has employed and paid wages to the person for an average of at least 30 hours of work each week, and where the employee has voluntarily terminated their employment after being employed for at least 90, but less than 180, days; and

(2) \$200 each month, up to a total of not more than \$1,200 for each employee, after the employer has employed and paid wages to the person for an average of at least 30 hours of work each week for at least 180 days.

(d) Financial incentive payments made to a participating private employer under a diversion program in accordance with this section shall be paid by the Texas Department of Human Services using money from the general revenue fund that is designated for the Temporary Assistance for Needy Families (TANF) program.

SECTION _____. Not later than January 1, 2004, the Health and Human Services Commission and the Texas Workforce Commission shall develop and implement a financial assistance diversion program as required by Section 531.063, Government Code, as added by this Act.

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

Senator Janek offered the following amendment to the bill:

Floor Amendment No. 23 on Third Reading

Amend **CSHB 2292** by adding a new SECTION on page 247, line 27 as follows:

(1) SECTION 2.146. Section 104.011(a), Health and Safety Code, is amended to read as follows:

(a) The statewide health coordinating council is composed of 17 members determined as follows:

(1) the commissioner of health and human services or a representative designated by the commissioner;

(2) the presiding officer of the Texas Higher Education Coordinating Board or a representative designated by the presiding officer;

(3) the presiding officer of the department or a representative designated by the presiding officer;

~~(4) the presiding officer of the Texas Health Care Information Council or a representative designated by the presiding officer;~~

(4) ~~[(5)]~~ the presiding officer of the Texas Department of Mental Health and Mental Retardation or a representative designated by the presiding officer; and

(5) ~~[(6)]~~ the following members appointed by the governor:

(A) three health care professionals from the allied health, dental, medical, mental health, ~~[nursing,]~~ and pharmacy professions, no two of whom may be from the same profession;

(B) one registered nurse;

(C) two representatives of a university or health-related institution of higher education;

(D) ~~[(C)]~~ one representative of a junior or community college that has a nursing program;

(E) ~~[(D)]~~ one hospital administrator;

(F) ~~[(E)]~~ one managed care administrator; and

(G) ~~[(F)]~~ four public members.

(2) Renumber remaining SECTIONS appropriately.

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

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 24 on Third Reading

Amend **CSHB 2292** as follows:

SECTION 2. Subchapter E, Chapter 431.116, Health and Safety Code, is amended by inserting new sections (f), (g), (h) to read as follows:

(f) Notwithstanding any other state law, pricing information that is disclosed by this section shall only be provided to the Medicaid Vendor Drug Purchase Program for its sole use. The Medicaid Vendor Drug Purchase Program shall use such information only as is necessary for the administration of its drug programs, including Medicaid.

(g) Notwithstanding any other state law, information disclosed by manufacturers or labelers under this section is deemed confidential under Chapter 552.101 and otherwise shall not be disclosed by the commission or any other state agency in a form that discloses the identity of a specific manufacturer or labeler, or prices charged by such manufacturers or labelers for a specific drug, except to permit the attorney general to enforce this chapter of the Human Resources Code under the jurisdiction of the commission.

(h) Notwithstanding any other state law, the penalties for disclosure of confidential information under Chapter 552 will apply in full force to disclosure of confidential information under this section.

The floor amendment was read.

Senator Janek offered the following amendment to the amendment:

Floor Amendment No. 24A on Third Reading

Amend Floor Amendment No. 24 on Third Reading to **CSHB 2292** as follows:

(1) On page 1, line 12, strike "under Chapter 552.101".

(2) On page 1, line 12, strike "otherwise".

(3) On page 1, lines 17, 18, and 19 strike "this chapter of the Human Resources Code under the jurisdiction of the commission" and substitute "state and federal laws".

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

Question recurring on the adoption of Floor Amendment No. 24 as amended, the amendment as amended was adopted by a viva voce vote.

Senator Madla offered the following amendment to the bill:

Floor Amendment No. 25 on Third Reading

Amend **CSHB 2292** (committee printing) as follows:

(1) Add the following appropriately numbered SECTIONS to ARTICLE 2 of the bill:

SECTION _____. Section 142.001, Health and Safety Code, is amended by amending Subdivisions (6), (13), and (22) and adding Subdivision (22-a) to read as follows:

(6) "Certified agency" means a home and community support services agency, or a portion of the agency, that:

(A) provides a home health service; and

(B) is certified by an official of the Department of Health and Human Services as in compliance with conditions of participation in Title XVIII, Social Security Act (42 U.S.C. Section 1395 et seq.).

(13) "Home health service" means the provision of one or more of the following health services required by an individual in a residence or independent living environment:

(A) nursing, including blood pressure monitoring and diabetes treatment;

(B) physical, occupational, speech, or respiratory therapy;

(C) medical social service;

(D) intravenous therapy;

(E) dialysis;

(F) service provided by unlicensed personnel under the delegation or supervision of a licensed health professional;

(G) the furnishing of medical equipment and supplies, excluding drugs and medicines; or

(H) nutritional counseling.

(22) "Personal assistance service" means routine ongoing care or services required by an individual in a residence or independent living environment that enable the individual to engage in the activities of daily living or to perform the physical functions required for independent living, including respite services. The term includes:

(A) personal care;

(B) health-related services performed under circumstances that are defined as not constituting the practice of professional nursing by the Board of Nurse Examiners through a memorandum of understanding with the department in accordance with Section 142.016; and

(C) health-related tasks provided by unlicensed personnel under the delegation of a registered nurse or that a registered nurse determines do not require delegation.

(22-a) "Personal care" means the provision of one or more of the following services required by an individual in a residence or independent living environment:

(A) bathing;

(B) dressing;

(C) grooming;

(D) feeding;

(E) exercising;

(F) toileting;

(G) positioning;

(H) assisting with self-administered medications;

(I) routine hair and skin care; and

(J) transfer or ambulation.

SECTION _____. Section 142.002, Health and Safety Code, is amended by adding Subsection (f) to read as follows:

(f) A person who is not licensed to provide personal assistance services under this chapter may not indicate or imply that the person is licensed to provide personal assistance services by the use of the words "personal assistance services" or in any other manner.

(2) Strike SECTION 2.53 of the bill (page 57, line 39, through page 58, line 45) and substitute the following appropriately numbered SECTION:

SECTION _____. Section 142.003(a), Health and Safety Code, is amended to read as follows:

(a) The following persons need not be licensed under this chapter:

(1) a physician, dentist, registered nurse, occupational therapist, or physical therapist licensed under the laws of this state who provides home health services to a client only as a part of and incidental to that person's private office practice;

(2) a registered nurse, licensed vocational nurse, physical therapist, occupational therapist, speech therapist, medical social worker, or any other health care professional as determined by the department who provides home health services as a sole practitioner;

(3) a registry that operates solely as a clearinghouse to put consumers in contact with persons who provide home health, hospice, or personal assistance services and that does not maintain official client records, direct client services, or compensate the person who is providing the service;

(4) an individual whose permanent residence is in the client's residence;

(5) an employee of a person licensed under this chapter who provides home health, hospice, or personal assistance services only as an employee of the license holder and who receives no benefit for providing the services, other than wages from the license holder;

(6) a home, nursing home, convalescent home, assisted living facility, special care facility, or other institution for individuals who are elderly or who have disabilities that provides home health or personal assistance services only to residents of the home or institution;

(7) a person who provides one health service through a contract with a person licensed under this chapter;

(8) a durable medical equipment supply company;

(9) a pharmacy or wholesale medical supply company that does not furnish services, other than supplies, to a person at the person's house;

(10) a hospital or other licensed health care facility that provides home health or personal assistance services only to inpatient residents of the hospital or facility;

(11) a person providing home health or personal assistance services to an injured employee under Title 5, Labor Code;

(12) a visiting nurse service that:

(A) is conducted by and for the adherents of a well-recognized church or religious denomination; and

(B) provides nursing services by a person exempt from licensing by Section 301.004, Occupations Code, because the person furnishes nursing care in which treatment is only by prayer or spiritual means;

(13) an individual hired and paid directly by the client or the client's family or legal guardian to provide home health or personal assistance services;

(14) a business, school, camp, or other organization that provides home health or personal assistance services, incidental to the organization's primary purpose, to individuals employed by or participating in programs offered by the business, school, or camp that enable the individual to participate fully in the business's, school's, or camp's programs;

(15) a person or organization providing sitter-companion services or chore or household services that do not involve personal care, health, or health-related services;

(16) a licensed health care facility that provides hospice services under a contract with a hospice;

(17) a person delivering residential acquired immune deficiency syndrome hospice care who is licensed and designated as a residential AIDS hospice under Chapter 248; ~~(18)~~

(18) the Texas Department of Criminal Justice;

(19) a person that provides home health, hospice, or personal assistance services only to persons enrolled in a program funded wholly or partly by the Texas Department of Mental Health and Mental Retardation and monitored by the Texas Department of Mental Health and Mental Retardation or its designated local authority in accordance with standards set by the Texas Department of Mental Health and Mental Retardation; or

(20) an individual who provides home health or personal assistance services as the employee of a consumer or an entity or employee of an entity acting as a consumer's fiscal agent under Section 531.051, Government Code.

(3) Add the following appropriately numbered SECTIONS to ARTICLE 2 of the bill:

SECTION _____. Section 142.0062(a), Health and Safety Code, is amended to read as follows:

(a) A home and community support services agency or its employees who are registered nurses or licensed vocational nurses may purchase, store, or transport for the purpose of administering to the agency's employees, home health or hospice patients, or patient family members under physician's standing orders the following dangerous drugs:

- (1) hepatitis B vaccine;
- (2) influenza vaccine; ~~and~~
- (3) tuberculin purified protein derivative for tuberculosis; and
- (4) pneumococcal polysaccharide vaccine.

SECTION _____. Sections 142.016(a) and (b), Health and Safety Code, are amended to read as follows:

(a) The Board of Nurse Examiners and the department shall adopt a memorandum of understanding governing the circumstances under which the provision of health-related tasks or services do not constitute the practice of professional nursing. The agencies periodically ~~annually~~ shall review and shall renew or modify the memorandum as necessary.

(b) The Board of Nurse Examiners and the department shall consult with an advisory committee in developing, modifying, or renewing the memorandum of understanding. The advisory committee shall be appointed by the Board of Nurse Examiners and the department and at a minimum shall include:

(1) one representative from the Board of Nurse Examiners and one representative from the department to serve as cochairmen;

(2) one representative from the Texas Department of Mental Health and Mental Retardation;

(3) ~~one representative from the Texas Department of Human Services;~~

~~(4)~~ one representative from the Texas Nurses Association;

~~(4)~~ ~~(5)~~ one representative from the Texas Association for Home Care, Incorporated, or its successor;

~~(5)~~ ~~(6)~~ one representative from the Texas Hospice Organization, Incorporated, or its successor;

~~(6)~~ ~~(7)~~ one representative of the Texas Respite Resource Network or its successor; and

(7) ~~(8)~~ two representatives of organizations such as the Personal Assistance Task Force or the Disability Consortium that advocate for clients in community-based settings.

SECTION _____. Sections 142.018(b) and (c), Health and Safety Code, are amended to read as follows:

(b) A home and community support services agency that has cause to believe that a person receiving services from the agency has been abused, exploited, or neglected by an employee of the agency shall report the information to:

(1) the department; and

(2) the Department of Protective and Regulatory Services or other appropriate state agency as required by Section 48.051 ~~[Sections 48.036 and 48.082]~~, Human Resources Code.

(c) This section does not affect the duty or authority of any state agency to conduct an investigation of alleged abuse, exploitation, or neglect as provided by other law. An investigation of alleged abuse, exploitation, or neglect may be conducted without an on-site survey, as appropriate.

SECTION _____. Section 250.001(3), Health and Safety Code, is amended to read as follows:

(3) "Facility" means:

(A) a nursing home, custodial care home, or other institution licensed by the Texas Department of Human Services under Chapter 242;

(B) an assisted living facility licensed by the Texas Department of Human Services under Chapter 247;

(C) a home and community support services ~~[health]~~ agency licensed under Chapter 142;

(D) an adult day care facility licensed by the Texas Department of Human Services under Chapter 103, Human Resources Code;

(E) a facility for persons with mental retardation licensed under Chapter 252;

(F) ~~[an unlicensed attendant care agency that contracts with the Texas Department of Human Services;~~

~~(G)~~ an adult foster care provider that contracts with the Texas Department of Human Services;

(G) ~~(H)~~ a facility that provides mental health services and that is operated by or contracts with the Texas Department of Mental Health and Mental Retardation; ~~[or]~~

(H) ~~(I)~~ a local mental health or mental retardation authority designated under Section 533.035; or

(J) a person exempt from licensing under Section 142.003(a)(19).

(4) Renumber SECTIONS of ARTICLE 2 of the bill accordingly.

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

Senator Janek offered the following amendment to the bill:

Floor Amendment No. 26 on Third Reading

Amend **CSHB 2292** by adding the following appropriately numbered Sections to Article 2 of the bill and renumbering the remaining Sections of Article 2 as appropriate:

SECTION _____. Subdivisions (2) and (7), Section 81.003, Health and Safety Code, are amended to read as follows:

(2) "Health authority" means:

(A) a physician appointed as a health authority [~~such~~] under Chapter 121 (Local Public Health Reorganization Act) or the health authority's designee; or

(B) a physician appointed as a regional director under Chapter 121 (Local Public Health Reorganization Act) who performs the duties of a health authority or the regional director's designee.

(7) "Public health disaster" means:

(A) a declaration by the governor of a state of disaster; and

(B) a determination by the commissioner that there exists an immediate threat from a communicable disease that:

(i) poses a high risk of death or serious long-term disability to a large number of people; and

(ii) creates a substantial risk of public exposure because of the disease's high level of contagion or the method by which the disease is transmitted ["Regional director" means a physician appointed as such under Chapter 121 (Local Public Health Reorganization Act)].

SECTION _____. Section 81.004, Health and Safety Code, is amended by adding Subsection (d) to read as follows:

(d) A designee of the commissioner may exercise a power granted to or perform a duty imposed on the commissioner under this chapter except as otherwise required by law.

SECTION _____. Subsection (d), Section 81.023, Health and Safety Code, is transferred to Subchapter A, Chapter 81, Health and Safety Code, redesignated as Section 81.011, Health and Safety Code, and amended to read as follows:

Sec. 81.011. REQUEST FOR INFORMATION. [~~(d)~~] In times of emergency or epidemic declared by the commissioner, the department [~~board~~] is authorized to request information pertaining to names, dates of birth, and most recent addresses of individuals from the driver's license records of the Department of Public Safety for the purpose of notification to individuals of the need to receive certain immunizations or diagnostic, evaluation, or treatment services for suspected communicable diseases.

SECTION _____. Section 81.041, Health and Safety Code, is amended by adding Subsection (f) to read as follows:

(f) In a public health disaster, the commissioner may require reports of communicable diseases or other health conditions from providers without board rule or action. The commissioner shall issue appropriate instructions relating to complying with the reporting requirements of this section.

SECTION _____. Subsection (a), Section 81.042, Health and Safety Code, is amended to read as follows:

(a) A report under Subsection (b), (c), or (d) shall be made to the local health authority [~~or, if there is no local health authority, the regional director~~].

SECTION _____. Section 81.043, Health and Safety Code, is amended to read as follows:

Sec. 81.043. RECORDS AND REPORTS OF HEALTH AUTHORITY [~~AND REGIONAL DIRECTOR~~]. (a) Each health authority [~~or regional director~~] shall keep a record of each case of a reportable disease that is reported to the authority [~~or director~~].

(b) A health authority [~~or regional director~~] shall report reportable diseases to the department's central office at least as frequently as the interval set by board rule.

SECTION _____. Section 81.046, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (f) to read as follows:

(b) Reports, records, and information relating to cases or suspected cases of diseases or health conditions are not public information under Chapter 552, Government Code, and may not be released or made public on subpoena or otherwise except as provided by Subsections (c), [~~and~~] (d), and (f).

(f) Reports, records, and information relating to cases or suspected cases of diseases or health conditions may be released to the extent necessary during a public health disaster to law enforcement personnel solely for the purpose of protecting the health or life of the person identified in the report, record, or information. Only the minimum necessary information may be released under this subsection, as determined by the health authority or the department.

SECTION _____. Section 81.064, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The department or [commissioner, the commissioner's designee,] a health authority [~~or a health authority's designee~~] may enter at reasonable times and inspect within reasonable limits a public place in the performance of that person's duty to prevent or control the entry into or spread in this state of communicable disease by enforcing this chapter or the rules of the board adopted under this chapter.

(c) Evidence gathered during an inspection by the department or health authority under this section may not be used in a criminal proceeding other than a proceeding to assess a criminal penalty under this chapter.

SECTION _____. Section 81.065, Health and Safety Code, is amended to read as follows:

Sec. 81.065. RIGHT OF ENTRY. (a) For an investigation or inspection, the commissioner, an employee of the department, or a health authority has the right of entry on land or in a building, vehicle, watercraft, or aircraft and the right of access to an individual, animal, or object that is in isolation, detention, restriction, or quarantine instituted by the commissioner, an employee of the department, or a health authority or instituted voluntarily on instructions of a private physician.

(b) Evidence gathered during an entry by the commissioner, department, or health authority under this section may not be used in a criminal proceeding other than a proceeding to assess a criminal penalty under this chapter.

SECTION _____. Subsection (a), Section 81.066, Health and Safety Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly conceals or attempts to conceal from the department [board], a health authority, or a peace officer, during the course of an investigation under this chapter, the fact that:

(1) the person has, has been exposed to, or is the carrier of a communicable disease that is a threat to the public health; or

(2) a minor child or incompetent adult of whom the person is a parent, managing conservator, or guardian has, has been exposed to, or is the carrier of a communicable disease that is a threat to the public health.

SECTION _____. Subsection (a), Section 81.067, Health and Safety Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly conceals, removes, or disposes of an infected or contaminated animal, object, vehicle, watercraft, or aircraft that is the subject of an investigation under this chapter by the department [board], a health authority, or a peace officer.

SECTION _____. Section 81.068, Health and Safety Code, is amended to read as follows:

Sec. 81.068. REFUSING ENTRY OR INSPECTION; CRIMINAL PENALTY.

(a) A person commits an offense if the person knowingly refuses or attempts to refuse entry to the department [board], a health authority, or a peace officer on presentation of a valid search warrant to investigate, inspect, or take samples on premises controlled by the person or by an agent of the person acting on the person's instruction.

(b) A person commits an offense if the person knowingly refuses or attempts to refuse inspection under Section 81.064 or entry or access under Section 81.065.

(c) An offense under this section is a Class A misdemeanor.

SECTION _____. Section 81.082, Health and Safety Code, is amended to read as follows:

Sec. 81.082. ADMINISTRATION OF CONTROL MEASURES. (a) A health authority has supervisory authority and control over the administration of communicable disease control measures in the health authority's jurisdiction unless specifically preempted by the department [board]. Control measures imposed by a health authority must be consistent with, and at least as stringent as, the control measure standards in rules adopted by the board.

(b) A communicable disease control measure imposed by a health authority in the health authority's jurisdiction may be amended, revised, or revoked by the department [board] if the department [board] finds that the modification is necessary or desirable in the administration of a regional or statewide public health program or policy. A control measure imposed by the department may not be modified or discontinued until the department authorizes the action.

(c) The control measures may be imposed on an individual, animal, place, or object, as appropriate.

(d) A declaration of a public health disaster may continue for not more than 30 days. A public health disaster may be renewed one time by the commissioner for an additional 30 days.

(e) The governor may terminate a declaration of a public health disaster at any time.

(f) In this section, "control measures" includes:

- (1) immunization;
- (2) detention;

- (3) restriction;
- (4) disinfection;
- (5) decontamination;
- (6) isolation;
- (7) quarantine;
- (8) disinfestation;
- (9) chemoprophylaxis;
- (10) preventive therapy;
- (11) prevention; and
- (12) education.

SECTION _____. Subsection (e), Section 81.083, Health and Safety Code, is amended to read as follows:

(e) An individual may be subject to court orders under Subchapter G if the individual is infected or is reasonably suspected of being infected with a communicable disease that presents an immediate threat to the public health and:

(1) the individual, or the individual's parent, legal guardian, or managing conservator if the individual is a minor, does not comply with the written orders of the department or a health authority under this section; or ~~and~~

(2) a public health disaster exists, regardless of whether the department or health authority has issued a written order and the individual has indicated that the individual will not voluntarily comply with control measures ~~[is infected or is reasonably suspected of being infected with a communicable disease that presents an immediate threat to the public health].~~

SECTION _____. Section 81.084, Health and Safety Code, is amended by amending Subsection (b) and adding Subsections (d-1) and (k) to read as follows:

(b) The department or health authority shall send notice of its action by registered or certified mail or by personal delivery to the person who owns or controls the property. If the property is land or a structure or an animal or other property on the land, the department or health authority shall also post the notice on the land and at a place convenient to the public in ~~on~~ the county courthouse ~~door~~. If the property is infected or contaminated as a result of a public health disaster, the department or health authority is not required to provide notice under this subsection.

(d-1) In a public health disaster, the department or health authority by written order may require a person who owns or controls property to impose control measures that are technically feasible to disinfect or decontaminate the property or, if technically feasible control measures are not available, may order the person who owns or controls the property:

(1) to destroy the property, other than land, in a manner that disinfects or decontaminates the property to prevent the spread of infection or contamination;

(2) if the property is land, to securely fence the perimeter of the land or any part of the land that is infected or contaminated; or

(3) to securely seal off an infected or contaminated structure or other property on land to prevent entry into the infected or contaminated area until the department or health authority authorizes entry into the structure or property.

(k) In a public health disaster, the department or a health authority may impose additional control measures the department or health authority considers necessary and most appropriate to arrest, control, and eradicate the threat to the public health.

SECTION _____. Subsections (a), (b), (c), (e), (f), and (h), Section 81.085, Health and Safety Code, are amended to read as follows:

(a) If an outbreak of communicable disease occurs in this state, the commissioner or one or more health authorities may impose an area quarantine coextensive with the area affected. The commissioner may impose an area quarantine, if the commissioner has reasonable cause to believe that individuals or property in the area may be infected or contaminated with a communicable disease, for the period necessary to determine whether an outbreak of communicable disease has occurred. A health authority may impose the quarantine only within the boundaries of the health authority's jurisdiction.

(b) A health authority may not impose an area quarantine until the authority consults with ~~[and obtains the approval of]~~ the department. A health authority that imposes an area quarantine shall give written notice to and shall consult with ~~[commissioner and of]~~ the governing body of each county and municipality in the health authority's jurisdiction that has territory in the affected area as soon as practicable.

(c) The department may impose additional disease control measures in a quarantine area that the department considers necessary and most appropriate to arrest, control, and eradicate the threat to the public health. Absent preemptive action by the department ~~[board]~~ under this chapter or by the governor under Chapter 418, Government Code (Texas Disaster Act of 1975), a health authority may impose in a quarantine area under the authority's jurisdiction additional disease control measures that the health authority considers necessary and most appropriate to arrest, control, and eradicate the threat to the public health.

(e) The department or health authority may use all reasonable means of communication to inform persons in the quarantine area of the department's ~~[board's]~~ or health authority's orders and instructions during the period of area quarantine. The department or health authority shall publish at least once each week during the area quarantine period, in a newspaper of general circulation in the area, a notice of the orders or instructions in force with a brief explanation of their meaning and effect. Notice by publication is sufficient to inform persons in the area of their rights, duties, and obligations under the orders or instructions.

(f) The department ~~[commissioner]~~ or, with the department's ~~[commissioner's]~~ consent, a health authority may terminate an area quarantine.

(h) A person commits an offense if the person knowingly fails or refuses to obey a rule, order, or instruction of the department ~~[board]~~ or an order or instruction of a health authority issued under a department ~~[board]~~ rule and published during an area quarantine under this section. An offense under this subsection is a felony of the third degree.

SECTION _____. Subsections (b) and (i), Section 81.086, Health and Safety Code, are amended to read as follows:

(b) If the department or health authority has reasonable cause to believe that a carrier or conveyance has departed from or traveled through an area infected or contaminated with a communicable disease, the department or health authority may order the owner, operator, or authorized agent in control of the carrier or conveyance to:

(1) stop the carrier or conveyance at a port of entry or place of first landing or first arrival in this state; and

(2) provide ~~[a statement in a form approved by the board that includes information required by board rules, including]~~ information on passengers and cargo manifests~~[, and]~~ that includes the details of:

(A) any illness suspected of being communicable that occurred during the journey;

(B) any condition on board the carrier or conveyance during the journey that may lead to the spread of disease; and

(C) any control measures imposed on the carrier or conveyance, its passengers or crew, or its cargo or any other object on board during the journey.

(i) The department or health authority may require an individual transported by carrier or conveyance who the department or health authority has reasonable cause to believe has been exposed to or is the carrier of a communicable disease to be isolated from other travelers and to disembark with the individual's personal effects and baggage at the first location equipped with adequate investigative and disease control facilities, whether the person is in transit through this state or to an intermediate or ultimate destination in this state. The department or health authority may investigate and, if necessary, isolate or involuntarily hospitalize the individual until the department or health authority approves the discharge as authorized by Section 81.083 ~~[81.084]~~.

SECTION _____. Subsection (a), Section 81.088, Health and Safety Code, is amended to read as follows:

(a) A person commits an offense if the person knowingly or intentionally:

(1) removes, alters, or attempts to remove or alter an object the person knows is a quarantine device, notice, or security item in a manner that diminishes the ~~[device's]~~ effectiveness of the device, notice, or item; or

(2) destroys an object the person knows is a quarantine device, notice, or security item.

SECTION _____. Subsection (a), Section 81.089, Health and Safety Code, is amended to read as follows:

(a) A person commits an offense if, before notifying the department ~~[board]~~ or health authority at a port of entry or a place of first landing or first arrival in this state, the person knowingly or intentionally:

(1) transports or causes to be transported into this state an object the person knows or suspects may be infected or contaminated with a communicable disease that is a threat to the public health;

(2) transports or causes to be transported into this state an individual who the person knows has or is the carrier of a communicable disease that is a threat to the public health; or

(3) transports or causes to be transported into this state a person, animal, or object in a private or common carrier or a private conveyance that the person knows is or suspects may be infected or contaminated with a communicable disease that is a threat to the public health.

SECTION _____. Subsection (d), Section 81.151, Health and Safety Code, is amended to read as follows:

(d) A copy of written orders made under Section 81.083, if applicable, and a medical evaluation must be filed with the application, except that a copy of the written orders need not be filed with an application for outpatient treatment.

SECTION _____. Subsection (c), Section 81.152, Health and Safety Code, is amended to read as follows:

(c) Any application must contain the following information according to the applicant's information and belief:

- (1) the person's name and address;
- (2) the person's county of residence in this state;
- (3) a statement that the person is infected with or is reasonably suspected of being infected with a communicable disease that presents a threat to public health and that the person meets the criteria of this chapter for court orders for the management of a person with a communicable disease; and

(4) a statement, to be included only in an application for inpatient treatment, that the person fails or refuses to comply with written orders of the department or health authority under Section 81.083, if applicable.

SECTION _____. Subsection (a), Section 81.162, Health and Safety Code, is amended to read as follows:

(a) The judge or designated magistrate may issue a protective custody order if the judge or magistrate determines:

(1) that the health authority or department has stated its opinion and the detailed basis for its opinion that the person is infected with or is reasonably suspected of being infected with a communicable disease that presents an immediate threat to the public health; and

(2) that the person fails or refuses to comply with the written orders of the health authority or the department under Section 81.083, if applicable.

SECTION _____. Section 161.011, Health and Safety Code, is amended to read as follows:

Sec. 161.011. PERMISSION REQUIRED. A person, including an officer or agent of this state or of an instrumentality or political subdivision of this state, may not enter a private residence to conduct a health inspection without first receiving:

- (1) permission obtained from a lawful adult occupant of the residence; or
- (2) an authorization to inspect the residence for a specific public health purpose by a magistrate or by an order of a court of competent jurisdiction on a showing of a probable violation of a state health law, a control measure under Chapter 81, or a health ordinance of a political subdivision.

SECTION _____. Subsection (d), Article 49.10, Code of Criminal Procedure, is amended to read as follows:

(d) A justice of the peace may not order a person to perform an autopsy on the body of a deceased person whose death was caused by Asiatic cholera, bubonic plague, typhus fever, or smallpox. A justice of the peace may not order a person to perform an autopsy on the body of a deceased person whose death was caused by a communicable disease during a public health disaster.

SECTION _____. Sections 10 and 10a, Article 49.25, Code of Criminal Procedure, are amended to read as follows:

Sec. 10. DISINTERMENTS AND CREMATIONS. When a body upon which an inquest ought to have been held has been interred, the medical examiner may cause it to be disinterred for the purpose of holding such inquest.

Before any body, upon which an inquest is authorized by the provisions of this Article, can be lawfully cremated, an autopsy shall be performed thereon as provided in this Article, or a certificate that no autopsy was necessary shall be furnished by the medical examiner. Before any dead body can be lawfully cremated, the owner or operator of the crematory shall demand and be furnished with a certificate, signed by the medical examiner of the county in which the death occurred showing that an autopsy was performed on said body or that no autopsy thereon was necessary. It shall be the duty of the medical examiner to determine whether or not, from all the circumstances surrounding the death, an autopsy is necessary prior to issuing a certificate under the provisions of this section. No autopsy shall be required by the medical examiner as a prerequisite to cremation in case death is caused by the pestilential diseases of Asiatic cholera, bubonic plague, typhus fever, or smallpox. All certificates furnished to the owner or operator of a crematory by any medical examiner, under the terms of this Article, shall be preserved by such owner or operator of such crematory for a period of two years from the date of the cremation of said body. A medical examiner is not required to perform an autopsy on the body of a deceased person whose death was caused by a communicable disease during a public health disaster.

Sec. 10a. The body of a deceased person shall not be cremated within 48 [~~forty eight~~] hours after the time of death as indicated on the regular death certificate, unless the death certificate indicates death was caused by the pestilential diseases of Asiatic cholera, bubonic plague, typhus fever, or smallpox, or unless the time requirement is waived in writing by the county medical examiner or, in counties not having a county medical examiner, a justice of the peace. In a public health disaster, the commissioner of public health may designate other communicable diseases for which cremation within 48 hours of the time of death is authorized.

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

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 27 on Third Reading

Amend **CSHB 2292** (Senate committee printing) as follows:

(1) In Section 2.06 of the bill, in added Section 531.063(c), Government Code (page 33, line 9), between "section" and "must", insert ", including a call center that processes overflow calls,".

(2) In Section 2.06 of the bill, in added Section 531.063(c), Government Code (page 33, lines 10-12), strike "This subsection does not prohibit a call center located in this state from processing overflow calls through a center located in another state.".

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

Senator Duncan offered the following amendment to the bill:

Floor Amendment No. 28 on Third Reading

Amend **CSHB 2292** by adding a new section to read as follows:

SECTION _____. Section 242.0372, Health and Safety Code, enacted by Section 6.01, Chapter 1284, Acts of the 77th Legislature, Regular Session, 2001, to be effective September 1, 2003, is amended by adding Subsection (f) to read as follows:

(f) An institution is not required to comply with this section before September 1, 2005. This subsection expires September 2, 2005.

SECTION _____. This SECTION to the Act takes effect September 1, 2003.

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

Senator Janek offered the following amendment to Floor Amendment No. 3 adopted on second reading:

Floor Amendment No. 29 on Third Reading

Amend on third reading Floor Amendment No. 3 adopted on second reading by amending **CSHB 2292** by striking SECTION 2.33 of the bill, (Senate committee printing, page 40, lines 20-35), and substitute the following:

SECTION 2.33. (a) Effective September 1, 2003, Section 466.408(b), Government Code, is amended to read as follows:

(b) If a claim is not made for prize money on or before the 180th day after the date on which the winner was selected, the prize money shall be used in the following order of priority:

(1) subject to legislative appropriation, not more than \$20 million in prize money each year may be deposited to or appropriated from the Texas Department of Health state-owned multicategorical teaching hospital account, which is an account in the general revenue fund; and

(2) all prize money subject to this section and not appropriated from the Texas Department of Health state-owned multicategorical teaching hospital account shall be deposited in the general revenue fund and may be appropriated for any purpose as determined by the legislature, including purposes specified in Chapter 61, Health and Safety Code [shall be deposited to the credit of the Texas Department of Health state-owned multicategorical teaching hospital account or the tertiary care facility account as follows:

[(1) not more than \$40 million in prize money each biennium may be deposited to or appropriated from the Texas Department of Health state-owned multicategorical teaching hospital account, which is an account in the general revenue fund; and

~~[(2) all prize money subject to this section in excess of \$40 million each biennium shall be deposited in the tertiary care facility account. Money deposited in the tertiary care facility account may only be appropriated to the department for purposes specified in Chapter 46 or 61, Health and Safety Code].~~

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

Senator Brimer offered the following amendment to the bill:

Floor Amendment No. 30 on Third Reading

Amend **CSHB 2292** to read as follows:

On page 49, line 10, between the ";" and the word "and" insert the following new subsection:

"(D) providing grants to schools of public health located in Texas;"

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

Floor Amendment No. 31 on Third Reading was not offered.

Floor Amendment No. 32 on Third Reading was not offered.

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 33 on Third Reading

Amend **CSHB 2292** as follows:

(1) In Article 2 of the bill, strike Sections 2.81, 2.93, and 2.96.

(2) In Article 2 of the bill, strike the introduction to Section 2.94 and substitute "Section 32.026, Human Resources Code, is amended by adding Subsection (g) to read as follows:".

(3) In Article 2, in Section 2.94 of the bill, strike Section 32.026(e), Human Resources Code, as amended by Section 2.94.

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

(President in Chair)

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 34 on Third Reading

Amend **CSHB 2292** as follows:

On page 53, line 16-18, after "level" strike "or enrollment exceeds the number of children authorized to be enrolled in the child health plan under the General Appropriations Act,".

On page 53, strike Section 2.46 and substitute:

Section 2.46. Section 62.102, Health and Safety Code, is amended to read as follows.

Sec. 62.102. CONTINUOUS COVERAGE. (a) The commission shall provide that an individual who is determined to be eligible for coverage under the child health plan remains eligible for those benefits until the earlier of:

(1) the end of a period, not to exceed 12 months, following the date of the eligibility determination; or the individual's 19th birthday.

(b) The period of continuous eligibility may be established at an interval of 6 months beginning immediately upon passage of this act and ending September 1, 2005 at which time an interval of 12 months of continuous eligibility will be re-established.

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

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 35 on Third Reading

Amend **CSHB 2292** as follows:

(1) In Section 2.79, on page 176, line 2, after "31.0031" and before "." insert "(d)(4)".

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

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 36 on Third Reading

Amend **CSHB 2292** (House engrossed printing) by adding the following appropriately numbered SECTION to Article 2 of the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Section 31.0065, Human Resources Code, is amended by adding Subsection (g) to read as follows:

(g) In computing time limits for financial assistance under Subsection (b), the department shall exclude the period during which an employed recipient receives the earned income disregard.

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

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 37 on Third Reading

Amend **CSHB 2292** as follows:

SECTION 1. Chapter 531, Government Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. PROVISION OF SERVICES FOR CERTAIN
CHILDREN WITH MULTIAGENCY NEEDS

Sec. 531.401. DEFINITIONS. In this subchapter:

(1) "Children with severe emotional disturbances" includes:

(A) children who are at risk of incarceration or placement in a residential mental health facility;

(B) children for whom a court may appoint the Department of Protective and Regulatory Services as managing conservator;

(C) children who are students in a special education program under Subchapter A, Chapter 29, Education Code; and

(D) children who have a substance abuse disorder or a developmental disability.

(2) "Community resource coordination group" means a coordination group established under a memorandum of understanding adopted under Section 531.055, as added by Chapter 114, Acts of the 77th Legislature, Regular Session, 2001.

(3) "Consortium" means the consortium that oversees the Texas Integrated Funding Initiative under Subchapter G, Chapter 531, as added by Chapter 446, Acts of the 76th Legislature, Regular Session, 1999.

(4) "Systems of care services" means a comprehensive state system of mental health services and other necessary and related services that is organized as a coordinated network to meet the multiple and changing needs of children with severe emotional disturbances and their families.

Sec. 531.402. EVALUATIONS BY COMMUNITY RESOURCE COORDINATION GROUPS. (a) Each community resource coordination group shall evaluate the provision of systems of care services in the community that the group serves. Each evaluation must:

(1) describe and prioritize services needed by children with severe emotional disturbances in the community;

(2) review and assess the systems of care services that are available in the community to meet those needs;

(3) assess the integration of the provision of those services; and

(4) identify any barriers to the effective provision of those services.

(b) Each community resource coordination group shall create a report that includes the evaluation in Subsection (a) and makes related recommendations, including:

(1) suggested policy and statutory changes at agencies that provide systems of care services; and

(2) recommendations for overcoming barriers to the provision of systems of care services and improving the integration of those services.

(c) Each community resource coordination group shall submit the report described by Subsection (b) to the consortium. The consortium shall provide a deadline to each group for submitting the reports. The time frame for completing the reports must be coordinated with any regional reviews by the commission of the delivery of related services.

Sec. 531.403. SUMMARY REPORT BY TEXAS INTEGRATED FUNDING INITIATIVE CONSORTIUM. (a) The consortium shall create a summary report based on the evaluations in the reports submitted to the consortium by community resource coordination groups under Section 531.402. The consortium's report must include recommendations for policy and statutory changes at each agency that is involved in the provision of systems of care services and the outcome expected from implementing each recommendation.

(b) The consortium shall coordinate, where appropriate, the recommendations in the report created under this section with recommendations in the assessment developed under S.B. No. 491, Acts of the 78th Legislature, Regular Session, 2003, and with the continuum of care developed under S.B. No. 490, Acts of the 78th Legislature, Regular Session, 2003.

(c) The consortium may include in the report created under this section recommendations for the statewide expansion of sites participating in the Texas Integrated Funding Initiative under Subchapter G, Chapter 531, as added by Chapter

446, Acts of the 76th Legislature, Regular Session, 1999, and the integration of services provided at those sites with services provided by community resource coordination groups.

(d) The consortium shall provide a copy of the report created under this section to each agency for which the report makes a recommendation and to other agencies as appropriate.

Sec. 531.404. AGENCY IMPLEMENTATION OF RECOMMENDATIONS. An agency described by Section 531.403(a) shall, as appropriate, adopt rules, policy changes, and memoranda of understanding with other agencies to implement the recommendations in the report created under Section 531.403.

SECTION 2. The consortium that oversees the Texas Integrated Funding Initiative under Subchapter G, Chapter 531, Government Code, as added by Chapter 446, Acts of the 76th Legislature, Regular Session, 1999, in cooperation with the Health and Human Services Commission and the Texas Department of Health, shall report to the governor and the 79th Legislature not later than January 11, 2005, on:

(1) recommendations in the report under Section 531.403, Government Code, as added by this Act, including recommendations for statutory changes; and

(2) agency implementation of recommendations under Section 531.404, Government Code, as added by this Act.

SECTION 3. 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, 2003.

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

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 38 on Third Reading

Amend **CSHB 2292** as follows:

SECTION 1. Subchapter C, Chapter 487, Government Code, is amended by adding Section 487.059 to read as follows:

Sec. 487.059. COMPREHENSIVE ACCESS POINTS FOR HEALTH CARE.

(a) In this section:

(1) "Primary health services provider" means:

(A) an allopathic or osteopathic primary care physician, which includes:

(i) a family practitioner;

(ii) an internist;

(iii) a pediatrician;

(iv) an obstetrician or gynecologist; and

(v) a general psychiatrist;

(B) a primary care nurse practitioner;

(C) a certified nurse midwife;

(D) a certified midwife;

(E) a primary care physician assistant;

(F) a general practice dentist;

(G) a registered clinical dental hygienist;

(H) a clinical or counseling psychologist;

- (I) a clinical social worker;
 - (J) a psychiatric nurse specialist;
 - (K) a mental health counselor;
 - (L) a licensed professional counselor; and
 - (M) a marriage or family therapist.
- (2) "Rural county" has the definition assigned by Section 487.301.
- (3) "Rural community" means a community in a rural county.

(b) The office, with cooperation from the Texas Department of Health, the Health and Human Services Commission, the statewide rural health care system designated under Chapter 845, Insurance Code, public health departments in rural counties, and professional health care associations, shall assess the health care needs of each rural community and the pattern of use of health care services in each of those communities.

(c) The agencies shall use the information collected under Subsection (b) to collaborate with the rural community to determine a comprehensive access point for health care to coordinate the delivery of health care, including delivery of services offered under the medical assistance program under Chapter 32, Human Resources Code, and the state child health plan under Chapter 62, Health and Safety Code, to residents of the rural community.

(d) Each agency listed in Subsection (b) shall provide services covered by programs of the agency to residents of rural communities from the comprehensive access points for health care. Each agency shall implement working arrangements with primary health services providers to work from or through each access point to provide services to residents of the rural communities served by the access point. Primary health services providers providing services at an access point must be eligible to serve residents who are enrolled in federal and agency programs, including:

- (1) the federal special supplemental nutrition program for women, infants, and children under 42 U.S.C. Section 1786, as amended;
- (2) the state child health plan under Chapter 62, Health and Safety Code;
- (3) the medical assistance program under Chapter 32, Human Resources Code; and
- (4) the Medicare program.

(e) The office shall report to the legislature regarding the efficacy of comprehensive access points for health care as part of the office's report to the legislature under Section 487.056.

SECTION 2. (a) Not later than January 1, 2004, the Office of Rural Community Affairs, after ensuring approval from local communities, shall choose three or four sites to serve as comprehensive access points for health care as required by Section 487.059, Government Code, as added by this Act.

(b) The Office of Rural Community Affairs may designate additional sites as comprehensive access points for health care if the office determines, as reported in its annual report delivered to the legislature on January 1, 2005, that the access points are effective in coordinating health care services to residents of rural counties.

SECTION 3. This Act takes effect September 1, 2003.

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

Senator Zaffirini offered the following amendment to the bill:

Floor Amendment No. 39 on Third Reading

Amend **CSHB 2292** by striking SECTION 1.22 of the bill (Senate committee printing, page 28, line 62 through page 29, line 37) and substituting the following:

SECTION 1.22. HEALTH AND HUMAN SERVICES TRANSITION LEGISLATIVE OVERSIGHT COMMITTEE. (a) The Health and Human Services Transition Legislative Oversight Committee is created to facilitate the transfer of powers, duties, functions, programs, and activities among the state's health and human services agencies and the Health and Human Services Commission as provided by this article with a minimal negative effect on the delivery of those services in this state.

(b) The committee is composed of 9 members, as follows:

(1) three members of the Senate, appointed by the Lieutenant Governor not later than October 1, 2003;

(2) three members of the House of Representatives, appointed by the Speaker of the House of Representatives not later than October 1, 2003; and

(3) three members of the public, appointed by the Governor not later than October 1, 2003.

(c) A member of the committee serves at the pleasure of the appointing official.

(d) The Lieutenant Governor and the Speaker of the House of Representatives shall each designate a co-chair from among their respective appointments.

(e) A member of the council may not receive compensation for serving on the council but is entitled to reimbursement for travel expenses incurred by the member while conducting the business of the council as provided by the General Appropriations Act.

(f) The committee shall:

(1) facilitate the transfer of powers, duties, functions, programs, and activities among the state's health and human services agencies and the Health and Human Services Commission as provided by statute with a minimal negative effect on the delivery of those services in this state;

(2) with assistance from the Health and Human Services Commission and the health and human services agencies, advise the executive commissioner of health and human services concerning:

(A) the powers, duties, functions, programs, and activities transferred under this article and the funds and obligations that are related to the powers, duties, functions, programs, or activities; and

(B) the transfer of the powers, duties, functions, programs, activities, records, property, funds, obligations, and employees by the entities required by statute;

(3) meet at the call of the presiding officers;

(4) receive information about rules proposed or adopted by the Health and Human Services Commission and the health and human services agencies;

(5) research, take public testimony, and issue reports on other appropriate issues or specific issues requested by the Lieutenant Governor, Speaker, or Governor; and

(6) review specific recommendations for legislation proposed by the Health and Human Services Commission and the health and human services agencies relating to health and human service rules and regulations and other appropriate issues.

(g) The committee shall monitor the effectiveness and efficiency of the health and human service system of this state.

(h) The committee may request reports and other information from the department and the attorney general relating to health and human service of this state and other appropriate issues.

(i) The committee shall use existing staff resources of the Senate, the House of Representatives, and the Texas Legislative Council to assist the committee in performing its duties under this section.

(j) Chapter 551, Government Code, applies to the council.

(k) The committee shall report to the Governor, Lieutenant Governor, and Speaker of the House of Representatives not later than November 15 of each even-numbered year. The report must include:

(1) identification of significant issues within the health and human service delivery system, with recommendations for action;

(2) the effectiveness and efficiency of the health and human service delivery system, with recommendations for any necessary research; and

(3) recommendations for legislative action.

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

Floor Amendment No. 40 on Third Reading was temporarily not offered.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 41 on Third Reading

Amend **CSHB 2292** by inserting the following SECTIONS, appropriately numbered, and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 161, Health and Safety Code, is amended by adding Section 161.0045 to read as follows:

Sec. 161.0045. INFORMATION ON IMMUNIZATION OF CHILDREN; DUTIES OF HOSPITALS AND BIRTHING CENTERS. (a) Before a newborn child is discharged after birth from a birthing center licensed under Chapter 244 or a hospital, the birthing center or hospital shall provide to the child's parent, managing conservator, or guardian an informational pamphlet describing immunizations available to protect the child from disease. A physician or certified nurse-midwife that attends the birth of a child outside of a birthing center or hospital shall provide a pamphlet to the child's parent, managing conservator, or guardian as soon as practicable following the birth of the child. An employee or volunteer of the birthing center or hospital, the physician, the certified nurse-midwife, or an employee or volunteer on behalf of the physician or certified nurse-midwife shall personally deliver a pamphlet to the child's parent, managing conservator, or guardian.

(b) The department shall develop the informational pamphlet required by this section.

(c) The informational pamphlet must describe:

(1) the diseases for which the child may be immunized;

(2) the appropriate schedule for administration of the immunizations to the child;

(3) the reasons the immunizations would be beneficial for the child;

(4) the potential risks and contraindications of the immunizations;

(5) how to report a vaccine reaction to the federal Vaccine Adverse Event

Reporting System;

(6) the National Vaccine Injury Compensation Program of the United States Department of Health and Human Services, contact information for the program, and the applicable statute of limitations for filing a claim under the program;

(7) any other information a parent, managing conservator, or guardian needs to make an informed consent to the immunizations; and

(8) the immunization registry.

(d) The department shall distribute the informational pamphlet to hospitals having a maternity unit, birthing centers, physicians, and certified nurse-midwives.

(e) The Office of Early Childhood Coordination of the Health and Human Services Commission shall coordinate funding for the development, publication, and distribution of the informational pamphlet. The development, publication, and distribution of the pamphlet may be funded through means other than appropriations, which may include gifts and grants and sale of sponsorship or advertising.

(f) A hospital or birthing center may use an alternative pamphlet that provides basic immunization information.

SECTION _____. Section 531.285, Government Code, is amended by adding Subsection (d) to read as follows:

(d) The office shall coordinate funding for the development, publication, and distribution of the informational pamphlet relating to immunization of children as required by Section 161.0045, Health and Safety Code.

SECTION _____. Not later than January 1, 2004, the Texas Department of Health shall make available the informational pamphlet described by Section 161.0045, Health and Safety Code, as added by this Act. In developing the informational pamphlet, the department may consider material contained in informational pamphlets previously prepared by the department and may use information previously compiled and available to the department.

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

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 42 on Third Reading

Amend **CSHB 2292** as follows:

Insert after SECTION 2.06

A contract with a private provider of services described in ARTICLE 2 of this act will stipulate that the provider will not engage in any activities that would be in violation of Section 572.051, Texas Government Code, if the provider were a state agency.

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

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 43 on Third Reading

Amend **CSHB 2292** as follows:

Insert after SECTION 2.06.

Any entity to which functions described in ARTICLE 2 of this act are transferred will be considered a state agency for the purposes of

- (a) Section 21.010 of the Texas Labor Code,
- (b) Subchapter I, Sections 21.451, 21.452, 21.453, 21.454, 21.455, and 21.456 of the Texas Labor Code
- (c) Subchapter J, Sections 21.501, 21.502, 21.503, and 21.504 of the Texas Labor Code, and
- (d) Subchapter K, Sections 21.551, 21.552, 21.553, 21.554, 21.555, and 21.556 of the Texas Labor Code.

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

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 44 on Third Reading

Amend **CSHB 2292** by adding the following appropriately numbered SECTION and renumbering existing SECTIONS of Article 2 accordingly:

SECTION 2. TEXAS HEALTH STEPS COMPREHENSIVE CARE PROGRAM. Subchapter B, Chapter 32, Human Resources Code, is amended by adding Section 32.057 to read as follows:

Sec. 32.057. DELIVERY OF COMPREHENSIVE CARE SERVICES TO CERTAIN RECIPIENTS OF MEDICAL ASSISTANCE. (a) In this section, "certified agency" and "home health service" have the meaning assigned by Section 142.001, Health and Safety Code.

(b) The department shall assure that any agency licensed to provide home health services under Chapter 142, Health and Safety Code, and not only a certified agency licensed under that chapter, may provide home health services to individuals enrolled in the Texas Health Steps Comprehensive Care Program.

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

Senator Carona offered the following amendment to the bill:

Floor Amendment No. 40 on Third Reading

Amend **CSHB 2292** as follows:

In Section 1.09 amend Section 1001.073(1), Health and Safety Code (Senate committee printing, page 12, lines 31-32), by striking "directly with public and private non profit community-based organizations".

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

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 45 on Third Reading

Amend **CSHB 2292** (Senate committee printing) by adding the following SECTION ____ and renumber appropriately:

SECTION _____. Any entity to which functions described in ARTICLE 2 of this act are transferred will be subject to the following in regard to all state and federal funds transferred to that entity:

- (a) Sections 556.004, 556.0055 and 556.0056, Government Code.
- (b) Sections 2113.012, 2113.101, Government Code
- (c) Article IX, Section 6.31 of SB 1, 77th Texas Legislature (2002-2003 appropriations act): Performance Rewards and Penalties)
- (d) Article IX, Sections 7.01 of SB 1, 77th Texas Legislature (2002-2003 appropriations act): (Budgeting and Reporting)
- (e) Sections 2102.001 - 2102.011, Government Code

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

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 46 on Third Reading

Amend **CSHB 2292** in Section 2.28 of the bill, in added Section 533.0025, Government Code, by inserting new Subsection (e) and (f) to read as follows:

(e) Notwithstanding Subsection (b)(1), the commission may not provide medical assistance using a health maintenance organization in Cameron County, Hidalgo County, or Maverick County.

(f) The Health and Human Services Commission shall conduct a study to determine the best model for any form of managed care in the counties described under subsection (e).

(1) The commission shall report its findings to the Governor, Lieutenant Governor, and Speaker of the House of Representatives no later than December 1, 2004.

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

Senator Estes offered the following amendment to the bill:

Floor Amendment No. 47 on Third Reading

Amend **CSHB 2292** by adding the following appropriately numbered SECTIONS to Article 2 of the bill and renumbering the remaining SECTIONS of the bill as appropriate:

SECTION _____. Section 38.001, Education Code, is amended by amending Subsection (c) and adding Subsection (f) to read as follows:

(c) Immunization is not required for a person's admission to any elementary or secondary school if the person applying for admission:

(1) submits to the admitting official:

(A) an affidavit or a certificate signed by a physician who is duly registered and licensed to practice medicine in the United States, in which it is stated that, in the physician's opinion, the immunization required could ~~would~~ be injurious to the health and well-being of the applicant or any member of the applicant's family or household; or

(B) an affidavit signed by the applicant or, if a minor, by the applicant's parent or guardian stating that the applicant declines immunization for reasons of conscience, where the applicant's sibling had an adverse reaction to the immunization, or because of a religious belief ~~[conflicts with the tenets and practice of~~

~~a recognized church or religious denomination of which the applicant is an adherent or member, except that this exemption does not apply in times of emergency or epidemic declared by the commissioner of public health]; or~~

(2) is a member of the armed forces of the United States and is on active duty.

(f) A person who has not received the immunizations required by this section for reasons of conscience, where the person's sibling had an adverse reaction to the immunization, or because of the person's religious beliefs may be excluded from school in times of emergency or epidemic declared by the commissioner of public health.

SECTION _____. Section 51.933(d), Education Code, is amended to read as follows:

(d) No form of immunization is required for a person's admission to an institution of higher education if the person applying for admission:

(1) submits to the admitting official:

(A) an affidavit or a certificate signed by a physician who is duly registered and licensed to practice medicine within the United States in which it is stated that, in the physician's opinion, the immunization required ~~could~~ would be injurious to the health and well-being of the applicant or any member of the applicant's family or household; or

(B) an affidavit signed by the applicant or, if a minor, by the applicant's parent or guardian stating that the applicant declines immunization for reasons of conscience, where the applicant's sibling had an adverse reaction to the immunization, or because of a religious belief ~~[conflicts with the tenets and practice of a recognized church or religious denomination of which the applicant is an adherent or member]; or~~

(2) is a member of the armed forces of the United States and is on active duty.

SECTION _____. Section 161.004(d), Health and Safety Code, is amended to read as follows:

(d) A child is exempt from an immunization required by this section if:

(1) ~~[immunization conflicts with the tenets of an organized religion to which]~~ a parent, managing conservator, or guardian states that the immunization is being declined for reasons of conscience, where the child's sibling had an adverse reaction to the immunization, or because of a religious belief ~~[belongs]; or~~

(2) the immunization is medically contraindicated based on the opinion of ~~[an examination of the child by]~~ a physician licensed by any state in the United States who has examined the child.

SECTION _____. Subchapter A, Chapter 161, Health and Safety Code, is amended by adding Section 161.0041 to read as follows:

Sec. 161.0041. IMMUNIZATION EXEMPTION AFFIDAVIT FORM. (a) A person claiming an exemption from a required immunization based on reasons of conscience, where the person's sibling had an adverse reaction to the immunization, or because of a religious belief under Section 161.004 of this code, Section 38.001 or

51.933, Education Code, or Section 42.043, Human Resources Code, must complete an affidavit on a form provided by the department stating the reason for the exemption. The department shall develop the affidavit form.

(b) The affidavit form shall contain:

(1) a statement indicating that the person or, if a minor, the person's parent, managing conservator, or guardian understands the benefits and risks of immunizations and the benefits and risks of not being immunized; and

(2) contact information for the department that may be used to request that a child's name be included in the registry.

SECTION _____. Section 42.043(d), Human Resources Code, is amended to read as follows:

(d) No immunization may be required for admission to a facility regulated under this chapter if a person applying for a child's admission submits one of the following affidavits:

(1) an affidavit signed by a licensed physician stating that the immunization could ~~would~~ be injurious to the health and well-being of the child or a member of the child's family or household; or

(2) an affidavit signed by the child's parent or guardian stating that the applicant declines immunization for reasons of conscience, where the child's sibling had an adverse reaction to the immunization, or because of a religious belief ~~[conflicts with the tenets and practices of a recognized religious organization of which the applicant is an adherent or a member]~~.

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

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 48 on Third Reading

Amend **CSHB 2292** by adding the following appropriately numbered SECTIONS to the bill:

SECTION _____. Subchapter B, Chapter 101, Civil Practice and Remedies Code, is amended by adding Section 101.0212 to read as follows:

Sec. 101.0212. LIABILITY OF STATE UNDER CERTAIN FEDERAL LAW.

(a) The state, including a political subdivision of the state, is liable for a violation of Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.), as amended.

(b) A suit under Subsection (a) may be filed only in a district court of this state.

SECTION _____. Subsection (a) of Section 101.023, Civil Practice and Remedies Code, is amended to read as follows:

(a) Liability of the state government under this chapter is limited to money damages in a maximum amount of:

(1) \$250,000 for each person and \$500,000 for each single occurrence for:

(A) bodily injury or death; or

(B) a violation by the state, including a political subdivision of the state, of the Americans with Disabilities Act (42 U.S.C. Section 12101 et seq.), as amended; and

(2) \$100,000 for each single occurrence for injury to or destruction of property.

SECTION _____. Section 101.0212, Civil Practice and Remedies Code, as added by this Act, and Section 101.023(a), Civil Practice and Remedies Code, as amended by this Act, apply only to a cause of action that arises before the effective date of this Act. A cause of action that arises before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

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

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 3 on Third Reading

Amend **CSHB 2292** by adding the following section to Article 2 of the bill, numbered appropriately:

SECTION _____. Section 534.003(a), Health and Safety Code, is amended to read as follows:

(a) The board of trustees of a community center established by an organizational combination of local agencies is composed of not fewer than five or more than 13 [~~nine~~] members.

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

Senator Zaffirini offered the following amendment to Floor Amendment No. 3 adopted on second reading:

Floor Amendment No. 3A on Third Reading

Amend Floor Amendment No. 3 adopted on second reading to **CSHB 2292** as follows:

On page 3 of the amendment which amends Section 2.43.

Section 62.002(4), Health and Safety Code, after "program" and before "." add the following:

"except offsets or disregards for child support paid out by the family and the first \$50 of child support received by the family".

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

(Senator Whitmire in Chair)

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 49 on Third Reading

Amend **CSHB 2292** by striking SECTION 1 and renumbering subsequent SECTIONS appropriately.

The floor amendment was read.

On motion of Senator Barrientos, Floor Amendment No. 49 was withdrawn.

(President in Chair)

Senator Gallegos offered the following amendment to the bill:

Floor Amendment No. 50 on Third Reading

Amend **CSHB 2292** by adding the following appropriately numbered sections to Article 2 of the bill and renumbering subsequent sections accordingly:

SECTION _____. Section 154.021(b), Tax Code, is amended to read as follows:

(b) The tax rates are:

(1) \$70.50 [~~\$20.50~~] per thousand on cigarettes weighing three pounds or less per thousand; and

(2) the rate provided by Subdivision (1) plus \$2.10 per thousand on cigarettes weighing more than three pounds per thousand.

SECTION _____. Section 154.603, Tax Code, is amended to read as follows:

Sec. 154.603. DISPOSITION OF REVENUE. (a) After the deductions for the purposes provided by Section 154.602 [~~of this code~~], the revenue remaining of the first \$2 of tax received per 1,000 cigarettes for cigarettes weighing three pounds or less per thousand and the first \$4.10 per 1,000 cigarettes of the tax received for cigarettes weighing more than three pounds per thousand is allocated:

(1) 18.75 percent to the foundation school fund; and

(2) 81.25 percent to the general revenue fund.

(b) The revenue remaining after the deductions for the purposes provided by Section 154.602 [~~of this code~~] and allocation under Subsection (a) of the next \$19.375 of tax received per 1,000 cigarettes for cigarettes weighing three pounds or less per thousand and the next \$19.375 per 1,000 cigarettes of the tax received for cigarettes weighing more than three pounds per thousand [~~this section~~] is allocated to the general revenue fund.

(c) The revenue remaining after the deductions for the purposes provided by Section 154.602 and allocation under Subsections (a) and (b) shall be deposited as follows:

(1) the next \$2.50 of tax received per 1,000 cigarettes for cigarettes weighing three pounds or less per thousand and the next \$2.50 per 1,000 cigarettes of the tax received for cigarettes weighing more than three pounds per thousand shall be deposited to the credit of the tobacco cessation account in the general revenue fund and may be appropriated only to the Texas Department of Health for programs to reduce the use of cigarettes and tobacco products in this state;

(2) the next \$5 of tax received per 1,000 cigarettes for cigarettes weighing three pounds or less per thousand and the next \$5 per 1,000 cigarettes of the tax received for cigarettes weighing more than three pounds per thousand shall be deposited to the credit of the trauma care account in the general revenue fund and may be appropriated only to the Texas Department of Health for programs to provide emergency medical services and trauma care in this state;

(3) the next \$1.50 of tax received per 1,000 cigarettes for cigarettes weighing three pounds or less per thousand and the next \$1.50 per 1,000 cigarettes of the tax received for cigarettes weighing more than three pounds per thousand shall be deposited to the credit of the Texas Department on Aging account in the general revenue fund and may be appropriated only to the Texas Department on Aging for programs to meet the needs of this state's elderly population;

(4) the next 12.5 cents of tax received per 1,000 cigarettes for cigarettes weighing three pounds or less per thousand and the next 12.5 cents per 1,000 cigarettes of the tax received for cigarettes weighing more than three pounds per

thousand shall be deposited to the credit of the Texas Cancer Registry account in the general revenue fund and may be appropriated only to the Texas Department of Health to administer the Texas Cancer Registry;

(5) the next \$15 of tax received per 1,000 cigarettes for cigarettes weighing three pounds or less per thousand and the next \$15 per 1,000 cigarettes of the tax received for cigarettes weighing more than three pounds per thousand shall be deposited to the credit of the Texas Department of Health account in the general revenue fund and may be appropriated only to the Texas Department of Health for programs administered by the department;

(6) the next \$2.50 of tax received per 1,000 cigarettes for cigarettes weighing three pounds or less per thousand and the next \$2.50 per 1,000 cigarettes of the tax received for cigarettes weighing more than three pounds per thousand shall be deposited to the credit of the rural health care account in the general revenue fund and may be appropriated only to the Texas Department of Health for programs to improve access to primary and preventive health care services in rural areas of this state;

(7) the next \$7.50 of tax received per 1,000 cigarettes for cigarettes weighing three pounds or less per thousand and the next \$7.50 per 1,000 cigarettes of the tax received for cigarettes weighing more than three pounds per thousand shall be deposited to the credit of the children's health insurance program account in the general revenue fund and may be appropriated only to the Health and Human Services Commission for the child health care program under Chapter 62, Health and Safety Code; and

(8) the remaining \$15 of tax received per 1,000 cigarettes for cigarettes weighing three pounds or less per thousand and the remaining \$15 per 1,000 cigarettes of the tax received for cigarettes weighing more than three pounds per thousand shall be deposited to the credit of the medical assistance account in the general revenue fund and may be appropriated only to the Health and Human Services Commission for the medical assistance program under Chapter 32, Human Resources Code.

The floor amendment was read and failed of adoption by a viva voce vote.

RECORD OF VOTE

Senator Lucio asked to be recorded as voting "Yea" on the motion to adopt Floor Amendment No. 50.

MOTION TO RECONSIDER VOTE

Senator Wentworth moved to reconsider the vote by which Floor Amendment No. 50 failed of adoption.

The motion was lost by the following vote: Yeas 11, Nays 19.

Yeas: Barrientos, Ellis, Gallegos, Hinojosa, Ratliff, Shapleigh, Van de Putte, Wentworth, West, Whitmire, Zaffirini.

Nays: Armbrister, Averitt, Bivins, Brimer, Carona, Deuell, Duncan, Estes, Fraser, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Shapiro, Staples, Williams.

Absent: Harris.

Senator Gallegos offered the following amendment to the bill:

Floor Amendment No. 51 on Third Reading

Amend **CSHB 2292** by adding the following appropriately numbered section to read as follows and renumbering subsequent sections accordingly:

SECTION _____. (a) At the general election to be held November 4, 2003, the voters shall be permitted to vote in a nonbinding referendum on the question of whether the cigarette tax should be increased by \$1 per pack and whether that increase should be used for certain health and human services programs.

(b) The ballot shall be printed to permit voting for or against the proposition: "The cigarette tax should be increased by \$1 per pack and the increase should be used for certain health and human services programs."

(c) The proposition shall be printed on the ballot beneath the proposed constitutional amendments under the heading: "Referendum Proposition."

(d) Notice of the election shall be given by inclusion of the proposition in the proclamation by the governor ordering the election on the proposed constitutional amendments to the state constitution and in the notice of that election given by each county judge.

(e) Returns of the votes cast on the proposition shall be prepared and canvassed in the same manner as the returns on the proposed constitutional amendments.

(f) Immediately after the results of the election are certified by the governor, the secretary of state shall transmit a copy of the certification to the lieutenant governor and the speaker of the house of representatives.

(g) It is the legislature's strong intention that, though the legislature has rarely conducted a referendum on matters of statewide importance, the will of the people should be considered given the importance of this particular issue in our state.

The floor amendment was read.

On motion of Senator Gallegos, Floor Amendment No. 51 was withdrawn.

Senator Hinojosa offered the following amendment to the bill:

Floor Amendment No. 52 on Third Reading

Amend **CSHB 2292** by inserting the following appropriately numbered SECTION to the bill and by renumbering the other SECTIONS of the bill appropriately:

SECTION _____. (a) Subchapter D, Chapter 51, Government Code, is amended by adding Section 51.321 to read as follows:

Sec. 51.321. FAMILY VIOLENCE PREVENTION FEE. (a) The commissioners court of a county may adopt a family violence prevention fee in an amount not to exceed \$15.

(b) Except as provided by Subsection (c), the district clerk shall collect the family violence prevention fee at the time a suit for dissolution of a marriage under Chapter 6, Family Code, is filed. The fee is in addition to any other fee collected by the district clerk.

(c) The clerk may not collect a fee under this section from a person who is protected by an order issued under:

(1) Subtitle B, Title 4, Family Code; or

(2) Article 17.292, Code of Criminal Procedure.

(d) The district clerk shall pay a fee collected under this section to the appropriate officer of the county in which the suit is filed for deposit in the county treasury to the credit of the family violence prevention account. The account may be used by the commissioners court of the county only to fund public or private nonprofit organizations providing shelter or services, including civil legal services, to victims of family violence. In this subsection, "family violence" has the meaning assigned by Section 71.004, Family Code.

(b) This section of the bill takes effect September 1, 2003, and applies only to a filing fee collected for a suit for the dissolution of a marriage under Chapter 6, Family Code, on or after the effective date of this Act. A filing fee collected for a suit for the dissolution of a marriage under Chapter 6, Family Code, before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

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

Floor Amendment No. 53 on Third Reading was not offered.

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

CSHB 2292 as again amended was finally passed by the following vote: Yeas 22, Nays 9.

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

Nays: Barrientos, Ellis, Gallegos, Hinojosa, Lucio, Shapleigh, Van de Putte, West, Whitmire.

(Senator Averitt in Chair)

COMMITTEE SUBSTITUTE

HOUSE BILL 1606 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1606** at this time on its second reading:

CSHB 1606, Relating to ethics of public servants, including the functions and duties of the Texas Ethics Commission; the regulation of political contributions, political advertising, lobbying, and conduct of public servants; the reporting of political contributions and personal financial information; and the misuse of certain confidential information by governmental officers and employees; providing civil and criminal penalties.

The bill was read second time.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1606** as follows:

(1) Between Sections 2.22 and 2.23 of the bill (Senate committee report, page 20, between lines 17 and 18), insert the following new section, appropriately numbered:

SECTION 2. _____. Section 255.001, Election Code, is amended to read as follows:

Sec. 255.001. REQUIRED DISCLOSURE ON POLITICAL ADVERTISING.

(a) A person may not knowingly cause to be published, distributed [enter into a contract or other agreement to print, publish], or broadcast political advertising that expressly advocates the nomination, election, or defeat of a candidate or the passage or defeat of a measure and that does not indicate in the advertising:

(1) that it is political advertising; and

(2) the full name of:

(A) the person who paid for the political advertising;

(B) the political committee authorizing the political advertising; or

(C) the candidate or specific-purpose committee supporting the candidate, if the political advertising is authorized by the candidate [either the individual who personally entered into the contract or agreement with the printer, publisher, or broadcaster or the person that individual represents; and

[(3) in the case of advertising that is printed or published, the address of either the individual who personally entered into the agreement with the printer or publisher or the person that individual represents].

(b) Political advertising that is authorized by a candidate, an agent of a candidate, or a political committee filing reports under this title is considered to expressly advocate the nomination, election, or defeat of a candidate or the passage or defeat of a measure.

(c) A person may not knowingly use, cause or permit to be used, or continue to use any published, distributed, or broadcast political advertising that expressly advocates the nomination, election, or defeat of a candidate or the passage or defeat of a measure and that the person knows does not include the disclosure required by Subsection (a). A person is presumed to know that the use of political advertising is prohibited by this subsection if the commission notifies the person in writing that the use is prohibited. A person who learns that political advertising signs, as defined by Section 255.007, that have been distributed do not include the disclosure required by Subsection (a) or include a disclosure that does not comply with Subsection (a) does not commit a continuing violation of this subsection if the person makes a good faith attempt to remove or correct those signs. A person who learns that printed political advertising other than a political advertising sign that has been distributed does not include the disclosure required by Subsection (a) or includes a disclosure that does not comply with Subsection (a) is not required to attempt to recover the political advertising and does not commit a continuing violation of this subsection as to any previously distributed political advertising.

(d) This section does not apply to:

(1) tickets or invitations to political fund-raising events;

(2) [or to] campaign buttons, pins, hats, or similar campaign materials; or
(3) circulars or flyers that cost in the aggregate less than \$500 to publish and
 distribute.

(e) [(e)] A person who violates this section is liable to the state for a civil penalty in an amount determined by the commission not to exceed \$4,000 [commits an offense. An offense under this section is a Class A misdemeanor].

(2) Immediately following Section 2.26(c) of the bill (Senate committee report, page 20, between lines 60 and 61), insert the following:

(d) Section 255.001, Election Code, as amended by this Act, applies only to political advertising that is published, distributed, or broadcast on or after September 1, 2003. Political advertising that is published, distributed, or broadcast before September 1, 2003, is governed by the law in effect on the date the political advertising is published, distributed, or broadcast, and the former law is continued in effect for that purpose.

(3) Renumber the sections of Article 2 of the bill accordingly.

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

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 1606** as follows:

(1) Strike Section 4.07 of the bill (Senate committee report, page 24, lines 36-64).

(2) Strike Subsection (a), Section 4.13 of the bill (Senate committee report, page 26, lines 3-7) and reletter the subsequent subsections of Section 4.13 accordingly.

(3) Renumber the sections of Article 4 accordingly.

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

Senator Brimer offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 1606** as follows:

(1) Strike Section 2.11 of the bill (Senate committee report, page 16, line 50, through page 17, line 34).

(2) Strike Sections 2.17, 2.18, and 2.19 of the bill (Senate committee report, page 18, line 55, through page 19, line 17).

(3) In Subsection (a), Section 2.26 of the bill (Senate committee report, page 20, lines 40-41), strike "and Sections 254.0612, 254.0912, and 254.1212, Election Code, as added by this Act,".

(4) Renumber the sections of Article 2 of the bill accordingly.

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

Floor Amendment No. 4 was not offered.

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 1606** as follows:

On page 28 (Senate committee printing), strike lines 41 to 46.

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

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSHB 1606** in Subsection (b), Section 5.10 of the bill (Senate committee report, page 30, lines 60 and 62), by striking "January 1, 2004" both places it appears and substituting "January 1, 2005".

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

Floor Amendment No. 7 was not offered.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 8

Amend **CSHB 1606** in SECTION 2.24 of the bill (Senate committee report, page 20, line 34), by striking "\$5,000" at the beginning and end of line 34 and substituting "\$25,000".

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

Senator Brimer offered the following amendment to the bill:

Floor Amendment No. 9

Amend **CSHB 1606** as follows:

(1) Between Sections 4.03 and 4.04 of the bill (Senate committee report, page 23, between lines 60 and 61), insert the following new section, appropriately numbered:

SECTION 4.____. Subchapter A, Chapter 305, Government Code, is amended by adding Section 305.0031 to read as follows:

Sec. 305.0031. PERSONS INELIGIBLE TO REGISTER. A person is not eligible to register or to renew a registration under this chapter if:

(1) the person has been convicted of a felony in any jurisdiction; or

(2) the person has been convicted in a jurisdiction other than this state of an offense other than a felony, if the offense would be a felony if committed in this state.

(2) Between Sections 4.10 and 4.11 of the bill (Senate committee report, page 25, between lines 61 and 62), insert the following new section, appropriately numbered:

SECTION 4.____. Subchapter F, Chapter 411, Government Code, is amended by adding Section 411.1006 to read as follows:

Sec. 411.1006. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: TEXAS ETHICS COMMISSION. (a) The Texas Ethics Commission is entitled to obtain from the department criminal history record information maintained by the department that relates to a person who applies for registration or renewal of registration under Chapter 305.

(b) Criminal history record information obtained by the commission under Subsection (a) may not be released or disclosed to any person, except on court order or with consent of the applicant.

(3) Renumber the sections of Article 4 of the bill accordingly.

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

Senator Bivins, on behalf of Senator Ratliff, offered the following amendment to the bill:

Floor Amendment No. 10

Amend **CSHB 1606** as follows:

(1) Between Sections 4.05 and 4.06 of the bill (Senate committee report, page 24, between lines 2 and 3), insert the following new section, appropriately numbered:

SECTION 4. ____. Section 305.0061, Government Code, is amended by amending Subsections (a) and (b) and adding Subsection (g) to read as follows:

(a) If a registrant or a person on the registrant's behalf and with the registrant's consent or ratification makes expenditures that exceed 60 percent of the amount of the legislative per diem in [~~\$50~~] a day for transportation or lodging for a member of the legislative or executive branch, the registrant shall also state the following on the report filed under Section 305.006:

(1) the name of the member of the legislative or executive branch in whose behalf the expenditure is made;

(2) the place and date of the transportation or lodging; and

(3) the purpose of the transportation or lodging.

(b) If a registrant or a person on the registrant's behalf and with the registrant's consent or ratification makes expenditures that exceed 60 percent of the amount of the legislative per diem in [~~\$50~~] a day for food and beverages for a member of the legislative or executive branch or makes expenditures that exceed 60 percent of the amount of the legislative per diem in [~~\$50~~] a day for entertainment for a member of the legislative or executive branch or for the immediate family of a member of the legislative or executive branch, the registrant shall also state the following on the report filed under Section 305.006:

(1) the name of the member of the legislative or executive branch in whose behalf the expenditure is made;

(2) the place and date of the expenditure; and

(3) the amount of the expenditure by the appropriate category of the amount, as determined by the commission.

(g) In this section, "legislative per diem" means the per diem set by the commission for members of the legislature as provided by Section 24(a), Article III, Texas Constitution.

(2) Between Sections 4.12 and 4.13 of the bill (Senate committee report, page 26, between lines 2 and 3), insert the following new section, appropriately numbered:

SECTION 4. ____. Sections 305.0061(a) and (b), Government Code, as amended by this Act, apply only to the reporting under Chapter 305, Government Code, of an expenditure for transportation, lodging, food and beverages, or entertainment made on or after September 1, 2003. The reporting under Chapter 305, Government Code, of an expenditure for transportation, lodging, food and beverages, or entertainment made before September 1, 2003, is governed by the law in effect at the time the expenditure is made, and the former law is continued in effect for that purpose.

(3) Renumber the sections of Article 4 of the bill accordingly.

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

Floor Amendment No. 11 was not offered.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 12

Amend **CSHB 1606** by inserting an appropriately numbered SECTION of the bill to read as follows:

SECTION _____. Sections 305.024 and 305.025, Government Code, are repealed. Any activities described by that former law that are not otherwise required to be reported under law shall be reported in accordance with any necessary rule adopted by the Texas Ethics Commission.

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

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 13

(1) Amend Article 4, **CSHB 1606** by adding the following Section and appropriately numbering each subsequent section to read as follows:

SECTION _____. Amend Section 305.0061, Government Code, by adding the following subsection and appropriately numbering each subsequent subsection:

(f) If a registrant or a person on the registrant's behalf and with the registrant's consent or ratification makes an expenditure for entertainment described by Section 305.025(5), the name of the registrant, a description of the event, the place, the date, the name of the member of the legislature or executive branch shall be reportable under this subsection on a form adopted by the commission and shall be the sole report required under this act for that event.

(2) Amend Article 4, **CSHB 1606** by adding the following Section and appropriately numbering each subsequent section to read as follows:

SECTION _____. Amend Section 305.025, Government Code, by adding the following subsection and appropriately numbering each subsequent subsection:

(5) necessary expenditures for entertainment where a description of the event, the place, the date, the name of the member of the legislature or executive branch are disclosed and reported under Section 305.0061(f);

The floor amendment was read and failed of adoption by a viva voce vote.

VOTE RECONSIDERED

On motion of Senator Ellis and by unanimous consent, the vote by which Floor Amendment No. 12 was adopted was reconsidered.

Question — Shall Floor Amendment No. 12 to **CSHB 1606** be adopted?

Floor Amendment No. 12 failed of adoption by a viva voce vote.

Senator Bivins offered the following amendment to the bill:

Floor Amendment No. 14

Amend **CSHB 1606** as follows:

On page 29, lines 7-22 strike SECTION 5.07 of the committee substitute and insert a new SECTION 5.07 as follows:

SECTION 5.07. SECTION 572.052(a), Government Code, is amended to read as follows:

(a) A member of the legislature may not, for compensation, represent another person before a state agency in the executive branch of state government unless-

(+) the representation-

~~(A) is made in a proceeding that is adversary in nature or in another public hearing that is a matter of record; or~~

~~(B) solely involves the filing of documents, contacts with the agency, or other relations, that involve only ministerial acts on the part of the commission, agency, board, department, or officer; and~~

~~(2) the member discloses to the agency that the member is being compensated for the representation.~~

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

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 15

Amend **CSHB 1606** by adding the following appropriately numbered SECTIONS of the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. Subsection (c), Section 171.002, Election Code, is amended to read as follows:

(c) The chair is elected at the general primary election by majority vote of the qualified voters of the state who vote in the election and shall serve for a term of two years beginning the 20th day after runoff primary election day. ~~The[?] vice chair[?] and members representing the senatorial districts are elected at the party's biennial state convention. [However, the chair, vice chair, and members may be elected for four year terms at the state convention held in gubernatorial election years.]~~ Each holds office until a successor is elected and assumes office.

SECTION _____. Subsection (b), Section 172.021, Election Code, is amended to read as follows:

(b) An application must, in addition to complying with Section 141.031, be accompanied by the appropriate filing fee or, instead of the filing fee, a petition that satisfies the requirements prescribed by Section 141.062. A political party may not require payment of a fee as a condition to applying for a place on the ballot as a candidate for state chair, county chair, or precinct chair.

SECTION _____. Section 172.061, Election Code, is amended to read as follows:

Sec. 172.061. CANDIDATE FOR PARTY OFFICE. (a) Except for Sections 172.058(b), 172.059(c), and 172.060(b), this subchapter applies to a candidate for state chair, county chair, or precinct chair.

(b) If a runoff candidate for state chair, county chair, or precinct chair withdraws, the remaining candidate is considered to be elected and the runoff election for that office is not held.

SECTION _____. Subsection (b), Section 181.004, Election Code, is amended to read as follows:

(b) The party shall provide by rule for the selection of a chair of ~~[the state executive committee and]~~ each county executive committee.

The floor amendment was read.

On motion of Senator Wentworth, Floor Amendment No. 15 was temporarily withdrawn.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 16

Amend **CSHB 1606** by adding the proposed SECTION 6.03:

SECTION 6.03. Subtitle C, Title 5, Local Government Code, is amended by adding proposed Chapter 176 to read as follows:

CHAPTER 176. DISCLOSURE OF CERTAIN RELATIONSHIPS WITH LOCAL GOVERNMENT OFFICERS

Sec. 176.001. APPLICABILITY OF CHAPTER. This chapter applies only to:

- (1) a county with a population of 2.2 million or more;
- (2) a municipality with a population of 1.6 million or more; and
- (3) a local governmental entity that is appointed by a county or municipality

described by this section.

Sec. 176.002. DEFINITIONS. In this chapter:

(1) "Family member" means a person related to another person within the first degree by consanguinity or affinity, as described by Subchapter B, Chapter 573, Government Code.

(2) "Local governmental entity" means a local government corporation, board, commission, district, or authority to which a member is appointed by the commissioners court of a county, the mayor of a municipality, or the governing body of a municipality.

(3) "Local government officer" means:

(A) a county judge;

(B) a county commissioner;

(C) a mayor;

(D) a municipal attorney;

(E) a member of the governing body of a municipality;

(F) a city manager of a municipality; or

(G) a member of a local governmental entity appointed by the commissioners court of a county, a mayor, or the governing body of a municipality.

Sec. 176.003. APPLICABILITY TO CERTAIN VENDORS AND OTHER PERSONS. (a) This chapter applies to a person who:

(1) contracts or seeks to contract for the sale or purchase of property, goods, or services with a county, municipality, or local governmental entity; or

(2) seeks the approval of a plat or permit with the commissioners court of the county, the governing body of a municipality, or the governing body of a local governmental entity.

(b) A person is not subject to this chapter under Subsection (a) if the person is:

(1) a state, a political subdivision of a state, a local governmental entity, the federal government, or a foreign government; or

(2) an employee of an entity described by Subdivision (1), acting in the employee's official capacity.

Sec. 176.004. CONFLICTS DISCLOSURE STATEMENT. (a) The commissioners court of a county or the governing body of a municipality shall adopt a conflicts disclosure statement for local government officers of the county or municipality or the local governmental entity to which the commissioners court of the county, mayor of the municipality, or governing body of the municipality appoints a member. The conflicts disclosure statement must include:

(1) a requirement that each local government officer disclose:

(A) an employment or other business relationship of the local government officer or a family member of the local government officer with a person described by Section 176.003(a) that results in the local government officer receiving taxable income, including the nature and extent of the relationship; and

(B) gifts received by the local government officer and any family member of the local government officer from a person described by Section 176.003(a) that have a total value of more than \$250;

(2) an acknowledgment from the local government officer that:

(A) the disclosure applies to a family member of the local government officer; and

(B) the statement covers the 12-month period before the date of the statement; and

(3) the signature of the local government officer acknowledging that the statement is made under oath under penalty of perjury.

(b) A local government officer shall file a conflicts disclosure statement with the custodian of the records of the governing body of the county, municipality, or local governmental entity not later than 5 p.m. on the seventh business day after which the local government officer becomes aware of the relationship between the county, municipality, or local governmental entity and the person described by Section 176.003(a) if:

(1) the person has contracted with the county, municipality, or local governmental entity;

(2) the county, municipality, or local governmental entity is considering doing business with the person; or

(3) the person has offered one or more gifts that have a total value of more than \$250 to that local government officer or a family member of the local government officer in the 12-month period preceding the date the local government officer becomes aware of the relationship between the county, municipality, or local governmental entity and the person.

(c) If the governing board of a local governmental entity is appointed by both the commissioners court of a county and the mayor or governing body of a municipality, the local government officers of the local governmental entity shall use the conflicts disclosure statement adopted by the commissioners court.

(d) A person commits an offense if the person is a local government officer and the person fails to file the conflicts disclosure statement as required by Subsection (b). An offense under this subsection is a Class C misdemeanor.

(e) A county or municipality may extend the requirements of this section to all or a group of the employees of the county or municipality or of a local governmental entity of the county or municipality. A county, municipality, or local governmental entity may reprimand, suspend, or terminate an employee who fails to comply with a requirement adopted under this section.

Sec. 176.005. DISCLOSURE REQUIREMENTS FOR VENDORS AND OTHER PERSONS; QUESTIONNAIRE. (a) This section applies only to a person described by Section 176.003(a) who:

(1) responds to a request for proposals or bids of a county, municipality, or local governmental entity;

(2) communicates with a county, municipality, or local governmental entity in connection with a potential agreement between the person and the county, municipality, or local governmental entity; or

(3) requests action by the county, municipality, or local governmental entity on a plat or permit.

(b) The commissioners court of a county or the governing body of a municipality shall adopt a conflict of interest questionnaire that requires disclosure of a person's affiliations or business relationships that might cause a conflict of interest.

(c) A person described by Subsection (a) shall file a completed conflict of interest questionnaire with the custodian of records of the county, municipality, or local governmental entity not later than the seventh business day after the date that the person:

(1) begins contract discussions or negotiations with the county, municipality, or local governmental entity;

(2) forwards to the county, municipality, or local governmental entity an application, response to a request for proposals or bids, correspondence, or another writing related to a potential agreement with the county, municipality, or local governmental entity; or

(3) submits a request for approval of a plat or permit.

(d) A person described by Subsection (a) shall file an updated completed questionnaire with the custodian of records of the county, municipality, or local governmental entity not later than:

(1) September 1 of each year in which an activity described by Subsection (a) is pending; and

(2) the seventh business day after the date of an event that would make a statement in the questionnaire incomplete or inaccurate.

(e) A contract entered into by the county, municipality, or local governmental entity and a person described by Subsection (a) is voidable by the county, municipality or local governmental entity if the person violates this section. The contract must state the substance of this subsection.

Sec. 176.006. ELECTRONIC FILING. The requirements of this chapter, including signature requirements, may be satisfied by electronic filing in a form approved by the county, municipality, or local governmental entity.

Sec. 176.007. POSTING ON INTERNET. A county or municipality that adopts a conflicts disclosure statement and a conflict of interest questionnaire under this chapter shall provide access to the statements and questionnaires filed under this

chapter, including any statement or questionnaire filed in relation to a local governmental entity of the county or municipality, on the Internet website maintained by the county or municipality.

Sec. 176.008. REQUIREMENTS CUMULATIVE. The requirements of this chapter are in addition to any other disclosure required by law.

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

Senator Wentworth again offered the following amendment to the bill:

Floor Amendment No. 15

Amend **CSHB 1606** by adding the following appropriately numbered SECTIONS of the bill and renumbering subsequent SECTIONS of the bill appropriately:

SECTION _____. Subsection (c), Section 171.002, Election Code, is amended to read as follows:

(c) The chair is elected at the general primary election by majority vote of the qualified voters of the state who vote in the election and shall serve for a term of two years beginning the 20th day after runoff primary election day. ~~The[-] vice chair[-] and members representing the senatorial districts are elected at the party's biennial state convention. [However, the chair, vice chair, and members may be elected for four year terms at the state convention held in gubernatorial election years.]~~ Each holds office until a successor is elected and assumes office.

SECTION _____. Subsection (b), Section 172.021, Election Code, is amended to read as follows:

(b) An application must, in addition to complying with Section 141.031, be accompanied by the appropriate filing fee or, instead of the filing fee, a petition that satisfies the requirements prescribed by Section 141.062. A political party may not require payment of a fee as a condition to applying for a place on the ballot as a candidate for state chair, county chair, or precinct chair.

SECTION _____. Section 172.061, Election Code, is amended to read as follows:

Sec. 172.061. CANDIDATE FOR PARTY OFFICE. (a) Except for Sections 172.058(b), 172.059(c), and 172.060(b), this subchapter applies to a candidate for state chair, county chair, or precinct chair.

(b) If a runoff candidate for state chair, county chair, or precinct chair withdraws, the remaining candidate is considered to be elected and the runoff election for that office is not held.

SECTION _____. Subsection (b), Section 181.004, Election Code, is amended to read as follows:

(b) The party shall provide by rule for the selection of a chair of ~~[the state executive committee and]~~ each county executive committee.

The floor amendment was again read.

Senator Barrientos offered the following amendment to the amendment:

Floor Amendment No. 17

Amend Floor Amendment No. 15 to **CSHB 1606**, on page 1, line 9, between the period and "The", by inserting "This does not apply to the chair of the Democratic party."

The amendment to the amendment was read and was adopted by the following vote: Yeas 7, Nays 4, Present-not voting 16.

Yeas: Barrientos, Gallegos, Shapleigh, Van de Putte, West, Whitmire, Zaffirini.

Nays: Armbrister, Carona, Ogden, Williams.

Present-not voting: Averitt, Bivins, Brimer, Deuell, Duncan, Ellis, Estes, Fraser, Jackson, Janek, Lucio, Madla, Nelson, Shapiro, Staples, Wentworth.

Absent: Harris, Hinojosa, Lindsay, Ratliff.

Question recurring on the adoption of Floor Amendment No. 15 as amended, the amendment as amended failed of adoption by the following vote: Yeas 11, Nays 12, Present-not voting 4.

Yeas: Armbrister, Carona, Deuell, Ellis, Lucio, Madla, Shapleigh, Van de Putte, Wentworth, Williams, Zaffirini.

Nays: Barrientos, Bivins, Duncan, Estes, Fraser, Gallegos, Jackson, Janek, Nelson, Ogden, Shapiro, Staples.

Present-not voting: Averitt, Brimer, West, Whitmire.

Absent: Harris, Hinojosa, Lindsay, Ratliff.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 18

(1) Amend Article 4, **CSHB 1606** by adding the following Section and appropriately numbering each subsequent section to read as follows:

SECTION _____. Amend Section 305.0061, Government Code, by adding the following subsection and appropriately numbering each subsequent subsection:

(f) If a registrant or a person on the registrant's behalf and with the registrant's consent or ratification makes an expenditure for entertainment described by Section 305.006(b)(5), the name of the registrant, a description of the event, the place, the date, the name of the member of the legislature or executive branch shall be reportable under this subsection on a form adopted by the commission and shall be the sole report required under this act for that event.

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

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

CSHB 1606 as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 1606 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1606** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

HOUSE BILL 2444 ON SECOND READING

Senator Armbrister moved to suspend the regular order of business to take up for consideration **HB 2444** at this time on its second reading:

HB 2444, Relating to certain purchases by the Railroad Commission of Texas.

The motion prevailed by a viva voce vote.

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

HOUSE BILL 2444 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2444** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

(Senator Armbrister in Chair)

HOUSE BILL 3629 ON SECOND READING

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3629** at this time on its second reading:

HB 3629, Relating to the creation of the Spring Branch Area Community Improvement District; providing the authority to issue bonds.

The bill was read second time.

Senator Whitmire offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3629** as follows:

- (1) On page 2, line 57, insert "and" after the semicolon.
- (2) On page 2, line 59, strike ";" and substitute a period.
- (3) On page 2, lines 60-61, strike subsection (5).
- (4) On page 2, lines 62-66, strike subsection (c).
- (5) On page 4, line 26, strike "and" and substitute "or".
- (6) On page 4, lines 27-30, strike subsection (2) and insert the following new subsection:

(2) at least 50 owners of real property in the district that will be subject to the assessment, if more than 50 persons own real property subject to the assessment in the district as determine by the most recent certified tax appraisal roll for Harris County.

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

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 2

(1) Amend **HB 3629** (committee report) on page one, between lines 10-11 by inserting the following:

SUBCHAPTER A. SPRING BRANCH AREA COMMUNITY
IMPROVEMENT DISTRICT

(2) Amend **HB 3629** (committee report) on page 6 after line 6 by inserting the following:

SUBCHAPTER B. TEMPLE HEALTH AND BIOSCIENCE
ECONOMIC DEVELOPMENT DISTRICT
ARTICLE 1. LEGISLATIVE FINDINGS AND INTENT;
CONSTRUCTION OF ACT

SECTION 1.001. DECLARATION OF LEGISLATIVE FINDINGS AND INTENT. (a) The creation of a district under this Act is essential to accomplish the purposes of Section 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and to accomplish other public purposes stated in this Act.

(b) This Act is enabling legislation enacted to further the public purposes under Section 52-a, Article III, Texas Constitution.

(c) The creation of a district under this Act is necessary to further the public purpose of improving the economy of the state and the City of Temple by providing for the development of health and bioscience operations and facilities.

(d) A district created under this Act serves the public purposes stated in this section.

SECTION 1.002. CONSTRUCTION OF ACT. (a) This Act shall be liberally construed in conformity with the legislative findings and purposes set forth in this Act.

(b) Chapter 311, Government Code (Code Construction Act), applies to this Act.

(c) A reference to a section without further identification is a reference to a section of this Act.

ARTICLE 2. GENERAL PROVISIONS

SECTION 2.001. DEFINITIONS. In this Act:

(1) "Board" means the board of directors of the district.

(2) "Bond" means an interest-bearing obligation issued by the district under this Act, including a bond, certificate, note, or other evidence of indebtedness.

(3) "City council" means the governing body of the City of Temple.

(4) "Director" means a board member.

(5) "District" means the Temple Health and Bioscience Economic Development District.

(6) "Project" means a project established under Section 5.010 and includes the land, buildings, equipment, facilities, infrastructure, improvements, and other property necessary to accomplish the purposes of the project.

SECTION 2.002. NATURE OF DISTRICT. The district is a special district and a political subdivision of this state under Section 59, Article XVI, Texas Constitution.

ARTICLE 3. CREATION OF DISTRICT

SECTION 3.001. APPLICATION FOR PETITION TO CREATE DISTRICT.

(a) If 10 or more qualified voters of the City of Temple file a written application with the city, the city shall issue to the applicants a petition to be circulated among the qualified voters of the city for the signatures of voters who desire that a local option election be called in the city to determine whether to create the district:

(1) with the power to impose an ad valorem tax not to exceed 15 cents per \$100 valuation of all taxable property in the district; or

(2) without the power to impose an ad valorem tax.

(b) If the district is created without the power to impose an ad valorem tax and 10 or more qualified voters of the City of Temple file a written application with the city for a petition to enable the district to impose a tax, the city shall issue to the applicants a petition to be circulated among the qualified voters of the city for the signatures of voters who desire to enable the district to impose an ad valorem tax not to exceed 15 cents per \$100 valuation of all taxable property in the district.

(c) At the request of petitioners under this section, a petition for a local option election to determine whether the district may impose an ad valorem tax may also express that at the same election the district shall be authorized to issue bonds payable in whole or in part from that ad valorem tax as permitted under Section 6.010.

SECTION 3.002. HEADING, STATEMENT, AND ISSUE ON APPLICATION FOR PETITION TO CREATE DISTRICT. (a) An application for a petition under Section 3.001 to create the district with the power to impose an ad valorem tax must be entitled: "Application for Local Option Election Petition to Create the Temple Health and Bioscience Economic Development District with the Power to Impose an Ad Valorem Tax not to Exceed 15 Cents per \$100 Valuation of all Taxable Property in the District." The application must contain a statement just before the signatures of the applicants that reads substantially as follows: "The petitioners whose signatures appear on this petition intend that the Temple Health and Bioscience Economic Development District referred to in the issue set out above be created." If the petition also seeks an election to authorize the issuance of bonds by the district payable in whole or in part from ad valorem taxes, the statement: "and to Issue Bonds Payable in Whole or in Part from the Ad Valorem Tax" must be appended to the end of the title specified in this subsection.

(b) An application for a petition under Section 3.001(a) to create the district without the power to impose the ad valorem tax must be entitled: "Application for Local Option Election Petition to Create the Temple Health and Bioscience Economic Development District." The application must contain a statement just before the signatures of the applicants that reads substantially as follows: "The petitioners whose signatures appear on this petition intend that the Temple Health and Bioscience Economic Development District referred to in the issue set out above be created."

(c) If the district initially is created without ad valorem taxing authority, an application for a petition under Section 3.001(b) seeking an election to enable the district to impose an ad valorem tax not to exceed 15 cents per \$100 valuation of all taxable property in the district must be entitled: "Application for Local Option Election Petition to Enable the Temple Health and Bioscience Economic Development District to Impose an Ad Valorem Tax not to Exceed 15 cents per \$100 Valuation of all Taxable Property in the District." The application must contain a statement just before the signatures of the applicants that reads substantially as follows: "The petitioners whose signatures appear on this petition intend that the Temple Health and Bioscience Economic Development District be enabled to impose an ad valorem tax not to exceed 15 cents per \$100 valuation of all taxable property in the district." If the petition also seeks an election to authorize the issuance of bonds by the district payable in whole or in part from ad valorem taxes, the statement: "and to Issue Bonds Payable in Whole or in Part from the Ad Valorem Tax" must be appended to the title specified by this subsection.

(d) Each petition must show the date it is issued by the City of Temple and be serially numbered. Each page of a petition must bear the same date and serial number.

SECTION 3.003. COPIES OF PETITION. (a) The City of Temple shall supply as many copies of the petition as required by the applicants but not to exceed more than one page of the petition for every 10 registered voters in the city. Each copy shall bear the date, number, and seal on each page as required on the original petition.

(b) The City of Temple shall keep a copy of each petition and a record of the applicants for that petition.

SECTION 3.004. FILING AND VERIFICATION OF PETITION. (a) Not later than the 120th day after the date on which a petition is issued by the City of Temple under Section 3.002, the applicants requesting the petition may file a request with the City of Temple for the petition to be verified under Subsection (b).

(b) If a request for verification is made under Subsection (a), the City of Temple shall examine the names of the signers of petitions and determine whether the signers of the petition were qualified voters of the city at the time the petition was issued. The City of Temple shall certify to the city council the number of qualified voters signing the petition not later than the 15th day after the date the request for verification was filed.

(c) A signature may not be counted under this section if there is good reason to believe that:

- (1) the signature is not the actual signature of the purported signer;
- (2) the voter registration certificate number is not correct;
- (3) the signature duplicates a name or the handwriting used in any other signature on the petition; or
- (4) the signer's residence address cannot be verified.

SECTION 3.005. REQUIREMENTS TO ORDER ELECTION. (a) Not later than the date of the second regular session of the city council convened after a petition has been verified under Section 3.004, the city council shall order a local option election to be held on the issue set out in the petition if the petition contains the following:

(1) the actual signatures of a number of qualified voters of the City of Temple equal to at least 10 percent of the registered voters of the city who voted in the most recent general election in the city;

(2) a notation showing the residence address of each signer;

(3) each signer's voter registration certificate number; and

(4) each signer's printed name.

(b) The following shall be entered in the city council minutes:

(1) the dates a petition is presented to and verified by the City of Temple;

(2) the names of the signers; and

(3) the action taken on the petition.

SECTION 3.006. NOTICE AND CONDUCT OF ELECTION; RESULTS. (a)

If the requirements to order an election under Section 3.005 are met, the city council shall give notice of the election on the issue set out in the verified petition by publishing a substantial copy of the election order once a week for two consecutive weeks in a newspaper with general circulation in the City of Temple. The first publication must appear before the 14th day before the date set for the election. If the election order includes the issue of whether the district may issue bonds, the first publication must appear before the 31st day before the date set for the election.

(b) The order calling the election must:

(1) define the district boundaries to be the boundaries of the City of Temple as the boundaries of the city are adjusted from time to time by the city; and

(2) call for the election to be held within those boundaries.

(c) The ballot at an election held under this section must be printed to permit voting for or against the proposition set forth below that was covered by the verified petition:

(1) "Authorizing the creation of the Temple Health and Bioscience Economic Development District and the imposition of an ad valorem tax not to exceed the rate of 15 cents per \$100 valuation of all taxable property in the district.;

(2) "Authorizing the creation of the Temple Health and Bioscience Economic Development District and the imposition of an ad valorem tax not to exceed the rate of 15 cents per \$100 valuation of all taxable property in the district and to issue bonds payable in whole or in part from the ad valorem tax.;

(3) "Authorizing the creation of the Temple Health and Bioscience Economic Development District.;

(4) "Authorizing the imposition of an ad valorem tax not to exceed the rate of 15 cents per \$100 valuation of all taxable property in the district.;

(5) "Authorizing the imposition of an ad valorem tax not to exceed the rate of 15 cents per \$100 valuation of all taxable property in the district and to issue bonds payable in whole or in part from the ad valorem tax."

(d) The district is created if a majority of the registered voters of the proposed district voting at the election favor creation. The district may impose an ad valorem tax not to exceed the rate of 15 cents per \$100 valuation of all taxable property in the district if a majority of the registered voters of the district voting at the election favor its imposition. The district may issue bonds payable wholly or partially from ad valorem taxes if a majority of the registered voters of the district voting at the election favor the authorization.

(e) If a majority of the registered voters of the proposed district voting at the election to create the district vote against creating the district, another election on the question of creating the district may not be held before the first anniversary of the date of the most recent election concerning the creation. If a majority of the registered voters of the district voting at the election to establish the power of the district to impose an ad valorem tax vote against the power, another election on the question may not be held before the first anniversary of the date of the most recent election concerning the question. If a majority of the registered voters of the district voting at the election to authorize the district to issue bonds payable wholly or partially from ad valorem taxes vote against the authorization, another election on the question may not be held before the first anniversary of the date of the most recent election concerning the question.

(f) The City of Temple shall hold an election provided under this section on the earliest of the uniform election dates under Section 41.001, Election Code, to occur following the adoption of the order calling the election by the city council.

SECTION 3.007. TEMPORARY BOARD. (a) After creation of the district under Section 3.006(d), the city council by resolution shall appoint seven directors to serve on a temporary board.

(b) In the resolution, the city council shall stagger the terms of the directors appropriately so that four directors serve until directors are elected under Section 4.003(1) and three directors serve until directors are elected under Section 4.003(2).

ARTICLE 4. BOARD OF DIRECTORS

SECTION 4.001. GOVERNING BODY. The district is governed by a board of seven directors elected as provided by this Act.

SECTION 4.002. TERMS. Except as provided by Section 3.007, directors serve staggered three-year terms.

SECTION 4.003. DATE OF ELECTIONS. The district shall hold board elections as follows:

(1) four directors must be elected on the regular election day on which certain members of the city council and the mayor of the City of Temple are elected; and

(2) three directors must be elected on the regular election day on which the other members of the city council of the City of Temple are elected.

SECTION 4.004. QUALIFICATIONS. A director:

(1) must be a registered voter of the City of Temple; and

(2) may not be:

(A) an elected official; or

(B) employed by the district or the City of Temple.

SECTION 4.005. BOARD VACANCY. A vacancy in the office of director shall be filled by the remaining directors for the unexpired term.

SECTION 4.006. DIRECTOR'S BOND; OATH. (a) As soon as practicable after a director is elected or appointed, the director shall execute a bond for \$10,000 payable to the district and conditioned on the faithful performance of the director's duties.

(b) The bond must be approved by the board.

(c) Each director shall take the oath of office prescribed by the constitution for public office.

(d) The bond and oath shall be filed with the district and the district shall retain the bond and oath in its records.

SECTION 4.007. BOARD OFFICERS. (a) The board shall elect from the board a presiding officer, a secretary, and any other officers the board considers necessary.

(b) The board by resolution shall establish the powers and duties of the officers, consistent with this Act.

SECTION 4.008. COMPENSATION; EXPENSES. A director serves without compensation but is entitled to reimbursement for actual and necessary expenses approved by the board.

SECTION 4.009. MEETINGS AND NOTICE. (a) The board may establish regular meetings to conduct district business and may hold special meetings at other times as necessary.

(b) The board shall provide the notice prepared under Subchapter C, Chapter 551, Government Code, to the City of Temple's secretary. In addition to the requirements imposed by that subchapter on the district, the city shall post the notice at the usual location at which notices of city council meetings are posted.

SECTION 4.010. EMPLOYEES; PERSONS HIRED BY BOARD. (a) The board shall employ any person the board considers necessary to conduct district affairs, including:

- (1) engineers;
- (2) attorneys;
- (3) financial advisors;
- (4) economists;
- (5) a general manager;
- (6) a utility operator;
- (7) bookkeepers;
- (8) auditors; and
- (9) clerical workers.

(b) The board by resolution shall determine the compensation and terms of service of any person employed or hired by the district.

(c) The board may remove any employee.

(d) The board may require an employee to execute a bond payable to the district and conditioned on the faithful performance of the person's duties.

ARTICLE 5. POWERS AND DUTIES

SECTION 5.001. GENERAL POWERS OF DISTRICT. The district has all powers necessary or convenient to carry out and effect the purposes and provisions of this Act.

SECTION 5.002. RULES. The board may adopt rules to govern the district, including its operations, employees, and property.

SECTION 5.003. DISTRICT OFFICE. The board shall designate and establish a district office in the City of Temple.

SECTION 5.004. PROPERTY. The district may exercise any type of property right, including the power to acquire, sell, or lease as lessee or lessor, regarding any type of property interest in the district or for use in the district under terms and conditions determined by the board.

SECTION 5.005. AGREEMENTS; GRANTS. The district may make an agreement with or accept a gift, grant, or loan from any person for any district purpose, including a contract to manage or maintain a district project.

SECTION 5.006. COMPETITIVE BIDDING. (a) Except as provided by Subsection (b), Section 375.221, Local Government Code, applies to the district.

(b) Section 375.221, Local Government Code, does not apply to a contract between the district and:

- (1) another governmental entity;
- (2) a nonprofit corporation, including a scientific research corporation; or
- (3) a corporation created under the Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes).

SECTION 5.007. RELATION TO OTHER LAW ON CONTRACTS. This Act states the procedures necessary to award contracts and supersedes any law or other requirement otherwise applicable to the district regarding the award of contracts.

SECTION 5.008. FEES FOR USE OF DISTRICT IMPROVEMENTS. The district may establish and maintain reasonable and nondiscriminatory rates, fares, charges, rents, or other fees or compensation for the use of the improvements constructed, operated, or maintained by the district.

SECTION 5.009. PROGRAMS. (a) The district may establish and provide for the administration of one or more programs to:

- (1) promote state or local economic development; and
- (2) stimulate business and commercial activity in the district that relates to a project.

(b) As part of a program established under Subsection (a), the district may:

- (1) make loans or grants of public money for a public purpose as provided by Section 52-a, Article III, Texas Constitution; or
- (2) provide district personnel and services for the program.

(c) The district may contract with any person to administer a program under this section.

SECTION 5.010. PROJECTS. (a) The district may establish projects for:

- (1) bioscience and health products, including projects related to:
 - (A) research and development;
 - (B) invention and discovery;
 - (C) commercialization;
 - (D) production and manufacturing of goods and products, including facilities for manufacturing; and

(E) development of production process and delivery system purposes in, involved in, based on, or related to, or intended to advance the state of knowledge, skill, and understanding of, the biosciences, including:

- (i) wet laboratories;
- (ii) clean rooms;
- (iii) dry laboratories;

- (iv) research and development facilities;
- (v) genetics facilities and equipment;
- (vi) pharmaceutical facilities and equipment;
- (vii) biotechnology incubators;
- (viii) bioscience and biotech health care facilities;
- (ix) biotech facilities;
- (x) bioscience facilities; and
- (xi) other similar projects;

(2) bioscience education, including health or biotech education facilities regardless of any affiliation with other institutions of higher, vocational, or job training education;

- (3) access to public safety facilities and equipment;
- (4) streets and roads;
- (5) drainage services;
- (6) wastewater services;
- (7) potable water services;
- (8) telecommunication facilities;
- (9) demolition of existing structures;
- (10) development and institution of water conservation programs;
- (11) chilled water services;
- (12) steam services;
- (13) industrial gases services;
- (14) other utility and process and production services; or
- (15) the support of any other type of health or bioscience projects.

(b) A project established under Subsection (a) must be related to the bioscience or health purposes of the district.

SECTION 5.011. SUITS. (a) The district may sue and be sued.

(b) Service of process in a suit may be made by serving any two directors.

(c) The district may not be required to give security for costs and may appeal from a judgment without giving a supersedeas or cost bond.

SECTION 5.012. SEAL. The district may adopt a seal.

SECTION 5.013. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes), including creation of a scientific corporation. The nonprofit corporation shall assist and act on behalf of the district in implementing a project or providing a service authorized by this Act.

(b) The board shall appoint the board of directors of a nonprofit corporation. The board may appoint a director of the district's board to serve as a director of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as the board of directors of a local government corporation created under Chapter 431, Transportation Code.

(c) The nonprofit corporation:

(1) has the powers of and is considered for purposes of this Act to be a local government corporation created under Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this Act.

ARTICLE 6. GENERAL FINANCIAL PROVISIONS

SECTION 6.001. USE OF DISTRICT MONEY. The district may use district money for any district purpose, including to pay:

- (1) for projects; and
- (2) district bonds or other obligations.

SECTION 6.002. INVESTMENTS. (a) The district may invest money it receives under this Act.

(b) The district may hire a person to invest district money on terms the board considers advisable.

SECTION 6.003. DISBURSEMENTS OR TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of district money.

SECTION 6.004. DEPOSITORY INSTITUTION. The district may designate financial institutions to serve as the depository bank or banks for the district.

SECTION 6.005. ACCOUNTS; FISCAL YEAR. (a) The district may establish an accounting system for the district for each year.

(b) The district may establish a fiscal year for the district.

SECTION 6.006. PROJECT FUND. (a) The district by resolution shall establish a project fund.

(b) The district may establish separate accounts within the project fund.

(c) The district shall deposit into the project fund all district money, including:

- (1) the proceeds from any ad valorem tax imposed by the district;
- (2) all revenue from the sale of district bonds or other obligations; and
- (3) any other money acquired or received by the district.

SECTION 6.007. AUDIT. (a) The district shall contract with an independent certified public accountant or a certified public accounting firm to audit the district's affairs annually, including the district's financial records. The contract must be a written contract.

(b) The district shall make the audit available for inspection by the public and the City of Temple.

SECTION 6.008. ASSESSMENTS. The district may impose an assessment on property in the district, including a leasehold interest, by agreement with the property owner.

SECTION 6.009. LIABILITIES. The district may incur liabilities, including those incurred by:

- (1) borrowing money on terms and conditions the board determines; and
- (2) issuing bonds or other obligations under Section 6.010.

SECTION 6.010. BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds, including revenue bonds, or other obligations to pay the costs of a project in the district.

(b) In exercising the district's borrowing power, the district may issue a bond or other obligation in the form of a bond, note, certificate of participation or other instrument evidencing a proportionate interest in payments to be made by the district, or other type of obligation.

ARTICLE 7. AD VALOREM TAX

SECTION 7.001. IMPOSITION OF AD VALOREM TAX. If authorized at an election held under Section 3.006, the district:

(1) may by order impose an annual ad valorem tax on taxable property in the district to pay for projects; and

(2) shall by order impose an ad valorem tax to pay for bonds that are payable wholly or partly from ad valorem taxes.

SECTION 7.002. TAX RATE. (a) The board shall determine the tax rate.

(b) The tax rate may not exceed 15 cents per each \$100 of assessed valuation of taxable property in the district.

SECTION 7.003. TAX ASSESSOR-COLLECTOR. The board may:

(1) appoint a district tax assessor-collector; or

(2) contract for the assessment and collection of taxes as provided by the Tax Code.

ARTICLE 8. DISSOLUTION OF DISTRICT

SECTION 8.001. DISSOLUTION OF DISTRICT. The district may be dissolved only as provided by this article.

SECTION 8.002. DISSOLUTION BY ORDER OF CITY COUNCIL. (a) The board may petition the city council to dissolve the district if the board finds that the district:

(1) has not issued bonds or other obligations under Section 6.010 and that the purposes of the district are impracticable, or reasonably and economically cannot be successful or accomplished; or

(2) has paid, or otherwise provided for payment of, all bonds and other obligations issued under Section 6.010 and that the purposes of the district have been accomplished.

(b) On receipt of a petition under Subsection (a), the city council shall hold a public hearing to determine whether the dissolution of the district serves the best interests of the City of Temple and the residents of the city.

(c) After the hearing, the city council shall:

(1) enter in its records the appropriate findings and order dissolving of the district if the city council unanimously determines that the best interests of the City of Temple and the residents of the city will be served by dissolving the district; or

(2) enter its order providing that the district has not been dissolved if the city council does not unanimously determine that the best interests of the City of Temple and the residents of the city will be served by dissolving the district.

(d) On dissolution of the district under this section:

(1) all money and other property of the district is transferred to the City of Temple; and

(2) the City of Temple shall assume any remaining contracts or other obligations of the district.

SECTION 8.003. DISSOLUTION OF DISTRICT ON AGREEMENT WITH CITY. (a) The district may be dissolved by agreement between the city council and the board.

(b) On dissolution of the district under this section:

(1) all money and other property of the district is transferred to the City of Temple; and

(2) the City of Temple shall assume the district's responsibilities regarding all district contracts, debts, bonds, and other obligations.

SECTION 8.004. EFFECT OF DISSOLUTION ON TAXES. On dissolution of the district, any taxes imposed by the district are abolished.

ARTICLE 9. EFFECTIVE DATE

SECTION 9.001. EFFECTIVE DATE. This subchapter 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, 2003.

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

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

HB 3629 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 3629 ON THIRD READING

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3629** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 179 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 179** at this time on its second reading:

HB 179, Relating to the qualification of a county fair association for an ad valorem tax exemption.

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

HOUSE BILL 179 ON THIRD READING

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 179** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 3305 ON SECOND READING**

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 3305** at this time on its second reading:

CSHB 3305, Relating to certain surcharges assessed and collected by the Texas Alcoholic Beverage Commission.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 3305 ON THIRD READING**

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3305** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 518 ON SECOND READING

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 518** at this time on its second reading:

HB 518, Relating to the service of citation by publication in a suit affecting the parent-child relationship.

The bill was read second time.

Senator Whitmire offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 518** on page 1, line 12, by striking "first or".

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

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 518** (Senate committee printing) on page 1, line 33, by adding new Section (2), to read as follows:

Section 231.006, Subsection (b), Family Code, is amended to read as follows:

(b) A child support obligor or business entity ineligible to receive payments under Subsection (a) remains ineligible until:

(1) all arrearage have been paid; ~~or~~

(2) the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency; or

(3) the court of continuing jurisdiction over the child support order has grant the obligor an exemption from Subsection (a) as part of a court supervised effort to improve earnings and child support payments.

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

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

HB 518 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 518 ON THIRD READING

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 518** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

HOUSE BILL 1691 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1691** at this time on its second reading:

HB 1691, Relating to use of the compensatory education allotment to fund certain programs for students who have dyslexia or a related disorder.

The bill was read second time.

Senator Zaffirini offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 1691** as follows:

(1) In SECTION 1 of the bill, in proposed Subsection (c-1), Section 42.152, Education Code (House engrossment, page 1, line 9), between "fund" and ":", insert "in proportion to the percentage of students served by the program that meet the criteria in Section 29.081(d) or (g)".

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

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

HB 1691 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1691 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1691** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

HOUSE BILL 3602 ON SECOND READING

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3602** at this time on its second reading:

HB 3602, Relating to the creation, administration, powers, duties, operation, and financing of the Brazoria County Groundwater Conservation District.

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

HOUSE BILL 3602 ON THIRD READING

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3602** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 318 ON SECOND READING**

Senator Shapiro moved to suspend the regular order of business to take up for consideration **CSHB 318** at this time on its second reading:

CSHB 318, Relating to certification to teach in certain grade levels of individuals who hold baccalaureate or advanced degrees from an institution of higher education.

The motion prevailed by the following vote: Yeas 20, Nays 10.

Yeas: Averitt, Bivins, Brimer, Deuell, Ellis, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Shapiro, Staples, Wentworth, West, Williams.

Nays: Armbrister, Barrientos, Carona, Duncan, Gallegos, Ratliff, Shapleigh, Van de Putte, Whitmire, Zaffirini.

Absent: Hinojosa.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 318** (Senate committee report version) as follows:

At the end of SECTION 1, add the following Subsection (j) to Section 21.0491, Education Code:

"(j) Notwithstanding any other requirement in this chapter, the executive director, upon approval of the commissioner of education, may grant a certificate under what is deemed extenuating circumstances to any person upon review of an applicant's educator credentials."

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

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 318**, committee printing, as follows:

In SECTION 1 of the bill, in added Section 21.0491(g), Education Code (page 1, lines 50-55), by striking lines 50-55.

The floor amendment was read and failed of adoption by the following vote: Yeas 12, Nays 18.

Yeas: Armbrister, Averitt, Barrientos, Ellis, Hinojosa, Lindsay, Lucio, Madla, Shapleigh, Van de Putte, West, Zaffirini.

Nays: Bivins, Brimer, Carona, Deuell, Duncan, Estes, Fraser, Gallegos, Jackson, Janek, Nelson, Ogden, Ratliff, Shapiro, Staples, Wentworth, Whitmire, Williams.

Absent: Harris.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 3

Amend **CSHB 318**, committee printing, as follows:

In SECTION 1 of the bill, in added Section 21.0491(b), Education Code (page 1, line 28), by striking "may" and inserting "shall".

The floor amendment was read and failed of adoption by a viva voce vote.

Senator Van de Putte offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 318**, committee printing, as follows:

1) In SECTION 1 of the bill, in added Section 21.0491(h)(1), Education Code (page 1, line 62), by striking "mentoring" and inserting "a mentor teacher who has more than five years of teaching experience and has completed a mentor training program. The trained mentor must be provided with additional compensation, sufficient resources, and at least one hour a day to plan, observe, and collaborate with each temporary certificate holder, in addition to classroom planning time;"

2) In SECTION 1 of the bill, in added Section 21.0491(h)(2), Education Code (page 1, line 63), by inserting "at least 200 hours of" before "pre-service".

The floor amendment was read and failed of adoption by a viva voce vote.

Senator Shapleigh offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 318** by striking all below the enacting clause.

The floor amendment was read.

On motion of Senator Shapiro, Floor Amendment No. 5 was tabled by the following vote: Yeas 17, Nays 13.

Yeas: Bivins, Brimer, Deuell, Estes, Fraser, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Ratliff, Shapiro, Staples, Wentworth, Williams.

Nays: Armbrister, Averitt, Barrientos, Carona, Duncan, Ellis, Gallegos, Hinojosa, Shapleigh, Van de Putte, West, Whitmire, Zaffirini.

Absent: Harris.

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

CSHB 318 as amended was passed to third reading by a viva voce vote.

(Thursday, May 29, 2003)

**MOTION TO PLACE
COMMITTEE SUBSTITUTE
HOUSE BILL 318 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 318** be placed on its third reading and final passage.

The motion was lost by the following vote: Yeas 22, Nays 9. (Not receiving four-fifths vote of Members present)

Yeas: Bivins, Brimer, Carona, Deuell, Duncan, Estes, Fraser, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Ratliff, Shapiro, Staples, Van de Putte, Wentworth, Williams.

Nays: Armbrister, Averitt, Barrientos, Ellis, Gallegos, Shapleigh, West, Whitmire, Zaffirini.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2933 ON SECOND READING**

Senator Barrientos moved to suspend the regular order of business to take up for consideration **CSHB 2933** at this time on its second reading:

CSHB 2933, Relating to the abolition of the Commission on Human Rights and the transfer of its functions to the Texas Workforce Commission.

The motion prevailed by a viva voce vote.

RECORD OF VOTE

Senator Nelson asked to be recorded as voting "Nay" on the suspension of the regular order of business.

The bill was read second time.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **CSHB 2933** as follows:

(1) On page 1, line 51, strike Subsection (c) and reletter subsequent Subsections accordingly.

(2) On page 3, line 18, strike "416" and substitute "461."

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

Senator Ratliff offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 2933**, on page 3, line 59, by striking SECTION 7, and substituting the following:

"SECTION 7. This act shall take effect upon certification of the Texas Workforce Commission Civil Rights Division by the appropriate federal agency, and the transfer of related federal funds. Upon certification of Texas Workforce Commission Civil Rights Division by the appropriate federal agency, the Workforce Commission shall file with the Secretary of State for publication in the Texas Register."

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

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

CSHB 2933 as amended was passed to third reading by a viva voce vote.

RECORD OF VOTE

Senator Nelson asked to be recorded as voting "Nay" on the passage of **CSHB 2933** to third reading.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2933 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2933** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Nelson.

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

RECORD OF VOTE

Senator Nelson asked to be recorded as voting "Nay" on the final passage of **CSHB 2933**.

HOUSE BILL 3209 ON SECOND READING

Senator Ratliff moved to suspend the regular order of business to take up for consideration **HB 3209** at this time on its second reading:

HB 3209, Relating to the amount of financial assistance a student may receive under the TEXAS grant and tuition equalization grant programs.

The motion prevailed by a viva voce vote.

RECORD OF VOTE

Senator Nelson asked to be recorded as voting "Nay" on the suspension of the regular order of business.

The bill was read second time.

Senator Ratliff offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 3209** by inserting the following SECTION 2, SECTION 3 and SECTION 4, renumbering subsequent SECTIONS accordingly:

SECTION 2. Section 56.304(a)(5), Education Code, is amended to read as follows:

(A) an entering undergraduate student for [~~at least three-fourths of~~] a full course load for an entering undergraduate student, as determined by the coordinating board, not later than the 16th month after the date of the person's graduation from high school; or

(B) an entering student for [~~at least three-fourths of~~] a full course load for an undergraduate student as determined by the coordinating board, not later than the 12th month after the month the person receives an associate degree from an eligible institution;

SECTION 3. Section 56.305(a)(3), Education Code, is amended to read as follows:

(3) is enrolled for [~~at least three-fourths~~] a full course load for an undergraduate student, as determined by the coordinating board;

SECTION 4. Section 56.304(f), Education Code, is amended to read as follows:

(f) A person's eligibility for a TEXAS Grant ends on the [~~sixth~~] fifth anniversary of the initial award of a TEXAS grant to the person and the person's enrollment in an eligible institution, unless the person is provided additional time during which the person may receive a TEXAS grant under this subsection. The coordinating board shall adopt rules to provide a person who is otherwise eligible to receive a TEXAS grant in the event of a hardship or other good cause shown that prevents the person from continuing the person's enrollment during the period the person would otherwise have been eligible to receive a TEXAS grant, including a showing of a severe illness or other debilitating condition or that the person is or was responsible for the care of a sick, injured, or needy person. This section applies to a new TEXAS grant recipients beginning on or after the 2003 fall semester.

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

Senator Ratliff offered the following committee amendment to the bill:

Committee Amendment No. 2

Amend **HB 3209** by adding Sec. 56.3041 to read as follows and renumber accordingly:

SECTION 1. Subchapter M, Chapter 56, Education Code, as added by Chapter 1590, Acts of the 76th Legislature, Regular Session, 1999, is amended by adding Section 56.3041 to read as follows:

Sec. 56.3041. INITIAL ELIGIBILITY OF PERSON ON TRACK TO COMPLETE RECOMMENDED OR ADVANCED CURRICULUM. (a) If at the time an eligible institution awards TEXAS grants to initial recipients for an academic year an applicant has not completed high school or the applicant's final high school transcript is not yet available to the institution, the student is considered to have satisfied the requirements of Section 56.304(a)(2)(A) if the student's available high

school transcript indicates that at the time the transcript was prepared the student was on schedule to graduate from high school and to complete the recommended or advanced high school curriculum or its equivalent, as applicable to the student, in time to be eligible for a TEXAS grant for the academic year.

(b) The coordinating board or the eligible institution may require the student to forgo or repay the amount of an initial TEXAS grant awarded to the student as described by Subsection (a) if the student fails to complete the recommended or advanced high school curriculum or its equivalent after the issuance of the available high school transcript.

(c) A person who is required to forgo or repay the amount of an initial TEXAS grant under Subsection (b) may become eligible to receive an initial TEXAS grant under Section 56.304 by satisfying the associate degree requirement prescribed by Section 56.304(a)(2)(B) and the other applicable requirements of that section at the time the person reapplies for the grant.

(d) A person who receives an initial TEXAS grant under Subsection (a) and is not required to forgo or repay the amount of the grant under Subsection (b) may become eligible to receive a subsequent TEXAS grant under Section 56.305 only by satisfying the associate degree requirement prescribed by Section 56.304(a)(2)(B) in addition to the requirements of Section 56.305 at the time the person applies for the subsequent grant.

SECTION 2. Subsection (g), Section 56.305, Education Code, as added by Chapter 1590, Acts of the 76th Legislature, Regular Session, 1999, is amended to read as follows:

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

(1) while enrolled in a number of semester credit hours that is less than the number of semester credit hours required under Subsection (a)(3); or

(2) if the student's grade point average or completion rate falls below the satisfactory academic progress requirements of Subsection (e). [~~The coordinating board may not allow a person to receive a TEXAS grant while enrolled in fewer than six semester credit hours.~~]

SECTION 3. Subsection (f), Section 56.307, Education Code, as added by Chapter 1590, Acts of the 76th Legislature, Regular Session, 1999, is amended to read as follows:

(f) The amount of a TEXAS grant may not be reduced by any gift aid for which the person receiving the grant is eligible, unless the total amount of a person's grant plus any gift aid received exceeds the student's financial need [~~total cost of attendance at an eligible institution~~].

SECTION 4. The change in law made by this Act relating to the eligibility of a person to receive a TEXAS grant applies beginning with students who demonstrate eligibility to receive a grant for the 2003-2004 academic year, to the extent TEXAS grants are awarded for that academic year after the effective date of this Act.

SECTION 5. Section 56.3041 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, 2003.

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

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3209** by adding the following appropriately numbered SECTION and renumbering the other SECTIONS of the bill accordingly:

SECTION _____. Subchapter F, Chapter 61, Education Code, is amended by adding Section 61.2251 to read as follows:

Sec. 61.2251. LIMITATION ON ELIGIBILITY FOR GRANT. (a) A person's eligibility for a tuition equalization grant ends on the fifth anniversary of the initial award of a tuition equalization grant to the person and the person's enrollment in an approved college or university, unless the person is provided additional time during which the person may receive a tuition equalization grant under Subsection (b).

(b) The board shall adopt rules to provide a person who is otherwise eligible to receive a tuition equalization grant additional time during which the person may receive a grant in the event of a hardship or other good cause shown that prevents the person from continuing the person's enrollment during the period the person would otherwise have been eligible to receive a grant under Subsection (a), including a showing of a severe illness or other debilitating condition or that the person is or was responsible for the care of a sick, injured, or needy person.

(c) Notwithstanding any other law, the provisions of this section relating to the period of eligibility also apply to eligibility for a TEXAS Grant.

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

Senator Ellis offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 3209** by adding the following appropriately numbered SECTION and renumbering the other SECTIONS of the bill accordingly:

SECTION _____. Section 61.225, Education Code, is amended to read as follows:

Sec. 61.225. QUALIFICATIONS FOR GRANT. To be eligible for a tuition equalization grant, a person must:

(1) be a Texas resident as defined by the coordinating board and meet, at a minimum, the resident requirements defined by law for Texas resident tuition in fully state-supported institutions of higher education;

(2) be enrolled for ~~[at least one half of]~~ a full course load conforming to an individual degree plan in an approved college or university;

(3) be required to pay more tuition than is required at a public college or university and be charged no less than the regular tuition required of all students enrolled at the institution;

(4) establish financial need in accordance with procedures and regulations of the coordinating board;

(5) not be a recipient of any form of athletic scholarship; and

(6) have complied with other requirements adopted by the coordinating board under this subchapter.

(c) Notwithstanding any other law, course load requirements under this section also apply to eligibility for a TEXAS Grant.

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

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

HB 3209 as amended was passed to third reading by a viva voce vote.

RECORD OF VOTE

Senator Nelson asked to be recorded as voting "Nay" on passage of **HB 3209** to third reading.

HOUSE BILL 3209 ON THIRD READING

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3209** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 1.

Nays: Nelson.

The bill was read third time and was passed by the following vote: Yeas 30, Nays 1. (Same as previous roll call)

HOUSE BILL 736 ON SECOND READING

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 736** at this time on its second reading:

HB 736, Relating to use of the internal mail system of a governmental agency to deliver political advertising; providing a criminal penalty.

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

HOUSE BILL 736 ON THIRD READING

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 736** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time.

Senator Shapiro offered the following amendment to the bill:

Floor Amendment No. 1 on Third Reading

Amend **HB 736** as follows:

- (1) On page 1, line 24, between "agency" and "to", insert "or municipality".
- (2) On page 1, line 26, between "agency" and the ".", insert "or municipality."

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

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

HB 736 as amended was finally passed by a viva voce vote.

HOUSE BILL 3587 ON SECOND READING

On motion of Senator Lindsay and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3587** at this time on its second reading:

HB 3587, Relating to powers, duties, and name of the Energy Corridor Management District.

The bill was read second time.

Senator Lindsay offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 3587** as follows:

On page 6, line 1, insert the following new sections and renumber subsequent sections accordingly:

SECTION 15. Section 386.001(2), Health and Safety Code, is amended to read as follows:

- (2) "Affected county" includes:
 - (A) Bastrop County;
 - (B) Bexar County;
 - (C) Caldwell County;
 - (D) Comal County;
 - (E) Ellis County;
 - (F) Gregg County;
 - (G) Guadalupe County;
 - (H) Harrison County;
 - (I) Hays County;
 - (J) Henderson County;
 - (K) Hood County;
 - (L) Hunt County;
 - (M) Johnson County;
 - (N) [~~K~~] Kaufman County;
 - (O) [~~L~~] Nueces County;
 - (P) [~~M~~] Parker County;
 - (Q) [~~N~~] Rockwall County;
 - (R) [~~O~~] Rusk County;

(S) [~~P~~] San Patricio County;

(T) [~~Q~~] Smith County;

(U) [~~R~~] Travis County;

(V) [~~S~~] Upshur County;

(W) [~~T~~] Victoria County;

(X) [~~U~~] Williamson County; ~~and~~

(Y) [~~V~~] Wilson County; and

(Z) any other county designated as an affected county by commission rule because of deteriorating air quality.

SECTION 16. Section 386.053(d), Health and Safety Code, is amended to read as follows:

(d) The commission may propose revisions to the guidelines and criteria adopted under this section as necessary to improve the ability of the plan to achieve its goals. Revisions may include, among other changes, adding additional pollutants, adding stationary engines or engines used in stationary applications, adding vehicles and equipment that use fuels other than diesel, or adjusting eligible program categories, as appropriate, to ensure that incentives established under this chapter achieve the maximum possible emissions reductions. The commission shall make a proposed revision available to the public before the 45th day preceding the date of final adoption of the revision and shall hold at least one public meeting to consider public comments on the proposed revision before final adoption.

SECTION 17. Sections 386.101(6) and (9), Health and Safety Code, are amended to read as follows:

(6) "On-road diesel" means an on-road diesel-powered motor vehicle that has a gross vehicle weight rating of 8,500 [~~10,000~~] pounds or more.

(9) "Repower" means to replace an old engine powering an on-road or non-road diesel with a new engine, a used engine, a remanufactured engine, or electric motors, drives, or fuel cells;

~~[(A) a new engine that emits at least 30 percent less than the oxides of nitrogen emissions standard required by federal regulation for the current model year for that engine;~~

~~[(B) an engine manufactured later than 1987 that emits at least 30 percent less than the oxides of nitrogen emissions standard emitted by a new engine certified to the baseline oxides of nitrogen emissions standard for that engine;~~

~~[(C) an engine manufactured before 1988 that emits not more than 50 percent of the oxides of nitrogen emissions standard emitted by a new engine certified to the baseline oxides of nitrogen emissions standard for that engine; or~~

~~[(D) electric motors, drives, or fuel cells].~~

SECTION 18. Section 386.102(b), Health and Safety Code, is amended to read as follows:

(b) Projects that may be considered for a grant under the program include:

- (1) purchase or lease of on-road or non-road diesels;
- (2) emissions-reducing retrofit projects for on-road or non-road diesels;
- (3) emissions-reducing repower projects for on-road or non-road diesels;
- (4) purchase and use of emissions-reducing add-on equipment for on-road or non-road diesels;

(5) development and demonstration of practical, low-emissions retrofit technologies, repower options, and advanced technologies for on-road or non-road diesels with lower emissions of oxides of nitrogen;

(6) use of qualifying fuel; ~~and~~

(7) implementation of infrastructure projects; and

(8) replacement of on-road or non-road diesels with newer on-road or non-road diesels.

SECTION 19. Section 386.103(a), Health and Safety Code, is amended to read as follows:

(a) Any person as defined by Section 382.003 that owns one or more on-road or non-road diesels that operate primarily within a nonattainment area or affected county of this state or that otherwise contributes to the state inventory of emissions of oxides of nitrogen may apply for a grant under the program. The commission may adopt guidelines to allow a person other than the owner to apply for and receive a grant in order to improve the ability of the program to achieve its goals.

SECTION 20. Section 386.104(f), Health and Safety Code, is amended to read as follows:

(f) A proposed retrofit, repower, replacement, or add-on equipment project must document, in a manner acceptable to the commission, a reduction in emissions of oxides of nitrogen of at least 30 percent compared with the baseline emissions adopted by the commission for the relevant engine year and application. After study of available emissions reduction technologies, after public notice and comment, and after consultation with the advisory board, the commission may revise the minimum percentage reduction in emissions of oxides of nitrogen required by this subsection to improve the ability of the program to achieve its goals.

SECTION 21. Section 386.105, Health and Safety Code, is amended by adding Subsection (e) to read as follows:

(e) The commission may allow for the apportionment of credits associated with a project between the plan and another program or entity if the part of the credit assigned to the program that is part of the plan still meets any applicable cost-effectiveness criteria.

SECTION 22. Section 386.106(a), Health and Safety Code, is amended to read as follows:

(a) Except as provided by Section 386.107 and except for infrastructure projects and infrastructure purchases that are part of a broader retrofit, repower, replacement, or add-on equipment project, the commission may not award a grant for a proposed project the cost-effectiveness of which, calculated in accordance with Section 386.105 and criteria developed under that section, exceeds \$13,000 per ton of oxides of nitrogen emissions reduced in the nonattainment area or affected county for which the project is proposed. This subsection does not restrict commission authority under other law to require emissions reductions with a cost-effectiveness that exceeds \$13,000 per ton.

SECTION 23. Section 386.112(b), Health and Safety Code, is amended to read as follows:

(b) The program shall authorize statewide incentives for the reimbursement of incremental costs for the purchase or lease, according to the schedule provided by Section 386.113, of new on-road diesels that are certified by the United States Environmental Protection Agency or the California Air Resources Board to an emissions standard provided by Section 386.113 if the purchaser or lessee of the on-road diesel agrees to register the vehicle in this state and to operate the on-road diesel in this state for not less than 75 percent of the on-road diesel's annual mileage.

SECTION 24. Subchapter C, Chapter 386, Health and Safety Code, is amended by adding Section 386.115 to read as follows:

Sec. 386.115. MODIFICATION OF VEHICLE ELIGIBILITY. After evaluating the availability of vehicles meeting the emissions standards and after public notice and comment, the commission, in consultation with the advisory board, may expand the program to include other on-road vehicles, regardless of fuel type used, that meet the emissions standards, have a gross vehicle weight rating of greater than 8,500 pounds, and are purchased or leased in lieu of a new on-road diesel.

SECTION 25. Chapter 368, Health and Safety Code, is amended by adding Section 386.116 to read as follows:

Section 386.116. SMALL BUSINESS INCENTIVES. (a) In this section, "small business" means a business owned by a person who:

(1) owns and operates not more than two vehicles, one of which is:
(A) an on-road diesel with a pre-1994 engine model; or
(B) a non-road diesel with an engine with uncontrolled emissions; and
(2) has owned the vehicle described by Subdivision (1)(A) or (B) for more than one year.

(b) The commission by rule shall develop a method of providing fast and simple access to grants under this subchapter for a small business.

(c) The commission shall publicize and promote the availability of grants under this section to encourage the use of vehicles that produce fewer emissions.

(d) On or before December 1 of each even-numbered year, the commission shall report commission actions and results under this section to the governor, lieutenant governor, and speaker of the house of representatives.

SECTION 26. Section 386.202(b), Health and Safety Code, is amended to read as follows:

(b) Programs approved under this subchapter and other energy efficiency programs administered by the utility commission must include energy conservation programs for the retirement of materials and appliances that contribute to energy consumption or peak energy demand to ensure the reduction of energy consumption, energy demand, or peak loads, and associated emissions of air contaminants.

SECTION 27. Section 386.252, Health and Safety Code, is amended to read as follows:

Sec. 386.252. USE OF FUND. (a) Money in the fund may be used only to implement and administer programs established under the plan and shall be allocated as follows:

(1) for the diesel emissions reduction incentive program, 87.5 ~~[72]~~ percent of the money in the fund, of which not more than ~~[three percent may be used for infrastructure projects and not more than]~~ 10 percent may be used for on-road diesel purchase or lease incentives;

(2) ~~[for the motor vehicle purchase or lease incentive program, 15 percent of the money in the fund;~~

~~[(3) for the energy efficiency grant program, 7.5 percent of the money in the fund;~~

~~[(4) for the new technology research and development program, 9.5~~ ~~[7.5]~~ percent of the money in the fund, of which up to \$250,000 is allocated for administration, up to \$200,000 is allocated for a health effects study, ~~[and]~~ \$500,000 is to be deposited in the state treasury to the credit of the clean air account created under Section 382.0622 to supplement funding for air quality planning activities in affected counties, and not less than 20 percent is to be allocated each year to support research related to air quality for the Houston-Galveston-Brazoria and Dallas-Fort Worth nonattainment areas by a nonprofit organization based in Houston.

(3) ~~[(5) for administrative costs incurred by [the utility commission,] the commission[, the comptroller,] and the laboratory, three percent.~~

(b) Up to 25 ~~[15]~~ percent of the money allocated under Subsection (a) to a particular program and not expended under that program by January ~~[March]~~ 1 of the second fiscal year of a fiscal biennium may be used for another program under the plan as determined by the commission in consultation with the advisory board.

SECTION 28. Section 387.003(b), Health and Safety Code, is amended to read as follows:

(b) Under the program, the Texas Council on Environmental Technology shall provide grants to be used to support development of emissions-reducing technologies that may be used for projects eligible for awards under Chapter 386 and other new technologies that show promise for commercialization. The primary objective of this chapter is to promote the development of commercialization technologies that will support projects that may be funded under Chapter 386 and this chapter, including advanced technologies such as fuel cells, catalysts, and fuel additives.

SECTION 29. Section 387.006(a), Health and Safety Code, is amended to read as follows:

(a) An application for a technology grant under this chapter must show clear and compelling evidence that:

(1) the proposed technology project has a strong commercialization plan and organization; and

(2) the technology proposed for funding:

(A) is likely to be offered for commercial sale in this state as soon as practicable but no later than ~~[within]~~ five years after the date of the application for funding; and

(B) once commercialized, will offer opportunities for projects eligible for funding under Chapter 386.

SECTION 30. Section 388.003, Health and Safety Code, is amended by adding Subsection (i) to read as follows:

(i) A building certified by a national, state, or local accredited energy efficiency program shall be considered in compliance.

SECTION 31. Section 388.004, Health and Safety Code, is amended to read as follows:

Section 388.004. ENFORCEMENT OF ENERGY STANDARDS OUTSIDE OF MUNICIPALITY. (a) For construction outside of the local jurisdiction of a municipality:

(1) a building certified by a national, state, or local accredited energy efficiency program shall be considered in compliance;

(2) a building with inspections from private code-certified inspectors using the energy efficiency chapter of the International Residential Code or International Energy Conservation Code shall be considered in compliance; and

(3) a builder who does not have access to either of the above methods for a building shall certify compliance using a form provided by the laboratory, enumerating the code-compliance features of the building.

(b) A builder shall retain until the third anniversary of the date on which compliance is achieved the original copy of any documentation that establishes compliance under this section. The builder on receipt of any compliance documentation shall provide a copy to the owner of the building.

(c) A single-family residence built in the unincorporated area of a county the construction of which was completed on or after September 1, 2001, but not later than August 31, 2002, shall be considered in compliance.

SECTION 32. Chapter 388, Health and Safety Code, is amended by adding Sections 388.009 and 388.010 to read as follows:

Sec. 388.009. ENERGY-EFFICIENT BUILDING PROGRAM. (a) In this section, "National Housing Act" means Section 203(b), (i), or (k) of the National Housing Act (12 U.S.C. Sections 1709(b), (i), and (k), as amended.

(b) The General Land Office, in consultation with the laboratory, the commission, and an advisory committee appointed by the General Land Office, may develop an energy-efficient building accreditation program for buildings that exceed the building energy performance standards under Section 388.003 by 15 percent or more.

(c) If the General Land Office adopts a program under this section, the General Land Office, in consultation with the laboratory, shall update the program on or before December 1 of each even-numbered year using the best available energy-efficient building practices.

(d) If the General Land Office adopts a program under this section, the program shall use a checklist system to produce an energy-efficient building scorecard to help:

(1) home buyers compare potential homes and, by providing a copy of the completed scorecard to a mortgage lender, qualify for energy-efficient mortgages under the National Housing Act; and

(2) communities qualify for emissions reduction credits by adopting codes that meet or exceed the energy-efficient building or energy performance standards established under this chapter.

(e) The General Land Office may establish a public information program to inform homeowners, sellers, buyers, and others regarding energy-efficient building ratings.

(f) If the General Land Office adopts a program under this section, the laboratory shall establish a system to measure the reduction in energy and emissions produced under the energy-efficient building program and report those savings to the commission.

Sec. 388.010. OUTREACH TO NEAR-NONATTAINMENT AREAS. The commission shall conduct outreach to near-nonattainment areas and affected counties on the benefits of implementing energy efficiency initiatives, including the promotion of energy-efficient building programs and urban heat island mitigation techniques, as a way to meet air quality attainment goals under the federal Clean Air Act (42 U.S.C. Section 7401 et seq.).

SECTION 33. Chapter 389, Health and Safety Code, is amended by adding Section 389.003 to read as follows:

Sec. 389.003. COMPUTING ENERGY EFFICIENCY EMISSIONS REDUCTIONS. The commission shall develop a method to use in computing emissions reductions obtained through energy efficiency initiatives.

SECTION 34. Subchapter H, Chapter 2155, Government Code, is amended by adding Section 2155.451 to read as follows:

Sec. 2155.451. VENDORS THAT MEET OR EXCEED AIR QUALITY STANDARDS. (a) This section applies only to a contract to be performed, wholly or partly, in an affected county, as that term is defined by Section 386.001, Health and Safety Code.

(b) The commission and state agencies procuring goods and services may:

(1) give preference to goods or services of a vendor that demonstrates that the vendor meets or exceeds any state or federal environmental standards, including voluntary standards, relating to air quality; or

(2) require that a vendor demonstrate that the vendor meets or exceeds any state or federal environmental standards, including voluntary standards, relating to air quality.

SECTION 35. Subchapter Z, Chapter 271, Local Government Code, is amended by adding Section 271.907 to read as follows:

Sec. 271.907. VENDORS THAT MEET OR EXCEED AIR QUALITY STANDARDS. (a) In this section, "governmental agency" has the meaning assigned by the Section 271.003.

(b) This section applies only to a contract to be performed, wholly or partly, in an affected county, as that term is defined by Section 386.001, Health and Safety Code.

(c) A governmental agency procuring goods or services may:

(1) give preference to goods or services of a vendor that demonstrates that the vendor meets or exceeds any state or federal environmental standards, including voluntary standards, relating to air quality; or

(2) require that a vendor demonstrate that the vendor meets or exceeds any state or federal environmental standards, including voluntary standards, relating to air quality.

SECTION 36. Section 151.0515, Tax Code, is amended by amending Subsections (a), (b), and (c) and adding Subsection (b-1) to read as follows:

(a) In this section, "equipment" includes all off-road, heavy-duty diesel equipment [~~classified as construction equipment~~], other than implements of husbandry used solely for agricultural purposes, including:

- (1) pavers;
- (2) tampers/rammers;
- (3) plate compactors;
- (4) concrete pavers;
- (5) rollers;
- (6) scrapers;
- (7) paving equipment;
- (8) surface equipment;
- (9) signal boards/light plants;
- (10) trenchers;
- (11) bore/drill rigs;
- (12) excavators;
- (13) concrete/industrial saws;
- (14) cement and mortar mixers;
- (15) cranes;
- (16) graders;
- (17) off-highway trucks;
- (18) crushing/processing equipment;
- (19) rough terrain forklifts;
- (20) rubber tire loaders;
- (21) rubber tire tractors/dozers;
- (22) tractors/loaders/backhoes;
- (23) crawler tractors/dozers;
- (24) skid steer loaders;
- (25) off-highway tractors; [~~and~~]
- (26) Dumpsters/tenders; and
- (27) mining equipment;

(b) In each county in this state, a surcharge is imposed on the retail sale, lease, or rental of new or used equipment in an amount equal to two [~~one~~] percent of the sale price or the lease or rental amount.

(b-1) In each county in this state, a surcharge is imposed on the storage, use, or other consumption in this state of new or used equipment. The surcharge is at the same percentage rate as is provided by Subsection (b) on the sales price or the lease or rental amount of the equipment.

(c) The surcharge shall be collected at the same time and in the same manner and shall be administered and enforced in the same manner as the tax imposed under this chapter [~~subchapter~~]. The comptroller shall adopt any additional procedures needed for the collection, administration, and enforcement of the surcharge authorized by this section and shall deposit all remitted surcharges to the credit of the Texas emissions reduction plan fund.

SECTION 37. Section 152.0215(a), Tax Code, is amended to read as follows:

(a) A surcharge is imposed on every retail sale, ~~or~~ lease, or use of every on-road diesel motor vehicle that is over 14,000 pounds ~~[and is of a model year 1996 or earlier]~~ and that is sold, ~~or~~ leased, or used in this state. The amount of the surcharge is two [2.5] percent of the total consideration.

SECTION 38. Section 224.153, Transportation Code, amended by adding Subsection (d) to read as follows:

(d) The department may not authorize vehicles addressed in Subsection (c) to use a high occupancy vehicle lane if such use would violate federal transit or highway funding restrictions.

SECTION 39. Sections 501.138(a) and (b), Transportation Code, are amended to read as follows:

(a) An applicant for a certificate of title, other than the state or a political subdivision of the state, must pay the county assessor-collector a fee of: [\$13].

(1) \$33 if the applicant's residence is a county located within a non-attainment area as defined under Section 107(d) of the federal Clean Air Act (U.S.C. Section 7407), as amended, or is an affected county, as defined by Section 386.01, Health and Safety Code; or

(2) \$25 if the applicant's residence is any other county.

(b) The county assessor-collector shall send:

(1) \$5 of the fee to the county treasurer for deposit in the officers' salary fund; ~~and~~

(2) \$8 of the fee to the department:

(A) together with the application within the time prescribed by Section 501.023; or

(B) if the fee is deposited in an interest-bearing account or certificate in the county depository or invested in an investment authorized by Subchapter A, Chapter 2256, Government Code, not later than the 35th day after the date on which the fee is received; and

(3) The following amount to the comptroller at the time and in the manner prescribed by the comptroller:

(A) \$20 of the fee if the applicant's residence is a county located within a non-attainment area as defined under Section 107(d) of the federal Clean Air Act (42 U.S.C. Section 7407), as amended, or is an affected county, as defined by Section 386.001, Health and Safety Code; or

(B) \$12 of the fee if the applicant's residence is any other county.

(C) Fees collected under this subsection to be sent to the comptroller shall be deposited as follows:

(1) before September 1, 2008, to the credit of the Texas emissions reduction fund; and

(2) after September 1, 2008, to the credit of the Texas Mobility Fund.

SECTION 40. Section 545.353, Transportation Code, is amended by adding Subsection (j) to read as follows:

(j) The commission may not determine or declare, or agree to determine or declare, a prima facie speed limit for environmental purposes on a part of the highway system.

SECTION 41. Section 386.157, Health and Safety Code, and Section 386.159, Health and Safety Code, are repealed.

SECTION 42. (a) Except as provided by Subsection (b) of this section, 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, 2003.

(b) Sections 24 and 25 of this Act take effect on the first day of the first month beginning on or after the earliest date on which this Act may take effect 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 effect before September 1, 2003, Sections 24 and 25 of this Act take effect September 1, 2003. The comptroller of public accounts may adopt emergency rules for the implementation of Sections 36 and 37 of this Act.

(c) Section 40 of this Act does not affect speed limits which have been approved by the Transportation Commission prior to the effective date of this Act.

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

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

HB 3587 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 3587 ON THIRD READING

Senator Lindsay moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3587** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 3257 ON SECOND READING

On motion of Senator Duncan and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3257** at this time on its second reading:

HB 3257, Relating to a health reimbursement arrangement program for active school employees.

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

RECORD OF VOTES

Senators Barrientos and Shapleigh asked to be recorded as voting "Nay" on the passage of **HB 3257** to third reading.

HOUSE BILL 3257 ON THIRD READING

Senator Duncan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3257** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 4.

Yeas: Armbrister, Averitt, Bivins, Brimer, Carona, Deuell, Duncan, Ellis, Estes, Fraser, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Ratliff, Shapiro, Staples, Van de Putte, Wentworth, West, Whitmire, Williams.

Nays: Barrientos, Gallegos, Shapleigh, Zaffirini.

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

RECORD OF VOTES

Senators Barrientos, Gallegos, Shapleigh, and Zaffirini asked to be recorded as voting "Nay" on the final passage of **HB 3257**.

HOUSE BILL 651 ON SECOND READING

On motion of Senator Williams and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 651** at this time on its second reading:

HB 651, Relating to the creation of a savings incentive program for state agencies.

The bill was read second time.

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 651** as follows:

(1) In proposed Section 2108.103, strike subsection (a) and substitute the following: "(a) The affected agency retains one-fourth of the amount of savings verified by the comptroller, not to exceed one percent of the amount of undedicated general revenue derived from nonfederal sources appropriated to the agency for the fiscal year in which the savings are realized."

(2) Add a new Section 2108.104 as follows: "Sec. 2108.104. In order for a state agency to receive any savings derived from lowered utility costs under this section, the state agency must demonstrate to the comptroller that the agency has maximized savings on utility expenses by implementing all energy and water conservation programs in compliance with rules adopted under Section 447.002."

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

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

HB 651 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 651 ON THIRD READING

Senator Williams moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 651** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

**COMMITTEE SUBSTITUTE
HOUSE BILL 1204 ON SECOND READING**

Senator Wentworth moved to suspend the regular order of business to take up for consideration **CSHB 1204** at this time on its second reading:

CSHB 1204, Relating to the authority of municipalities and counties to regulate subdivisions and certain development in a municipality's extraterritorial jurisdiction.

The motion prevailed by a viva voce vote.

RECORD OF VOTE

Senator Nelson asked to be recorded as voting "Nay" on the suspension of the regular order of business.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 1

Amend **CSHB 1204** (Senate committee report) as follows:

(1) Strike SECTIONS 7, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 25.

(2) Add the following SECTION, appropriately numbered, and renumbering subsequent sections appropriately:

SECTION _____. Section 232.100, Local Government Code, is amended to read as follows:

Sec. 232.100. APPLICABILITY. This subchapter applies only to the subdivision of the land that is:

(1) subject to county regulations under Subchapter A or B; and

(2) in a county that:

(A) has a population of 150,000 or more and is adjacent to an international border;

(B) has a population of 700,000 or more; ~~or~~

(C) is adjacent to a county with a population of 700,000 or more and is within the same metropolitan statistical area as that adjacent county, as designated by the United State Office of Management and Budget; or

(D) is adjacent to a county with a population of 700,000 or more, not within the same metropolitan statistical area as that adjacent county, that has a population that has increased after the 1990 decennial census, from one decennial census to the next, by more than 40 percent.

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

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 2

Amend **CSHB 1204** (Senate committee printing) by adding a new SECTION ____ and renumbering subsequent sections accordingly, to read as follows:

SECTION ____ . Section 232.009(b), Local Government Code, is amended to read as follows:

(b) A person who owns real property in a tract that has been ~~has~~ subdivided and ~~land~~ that is subject to the subdivision controls of the county in which the property ~~land~~ is located may apply in writing to the commissioners court of the county for permission to revise the subdivision plat that applies to the property and that is filed for record with the county clerk.

SECTION ____ . Subchapter A, Chapter 232, Local Government 7 Code, is amended by adding Section 232.0095 to read as follows:

Sec. 232.0095. ALTERNATIVE PROCEDURES FOR PLAT REVISION.

(a) This section applies only to real property located outside municipalities and outside the extraterritorial jurisdiction, as determined under Chapter 42, of municipalities with a population of 1.5 million or more.

(b) As an alternative to the provisions in Section 232.009 governing the revision of plats, a county by order may adopt the provisions in Section 212.013, 212.014, 212.015, and 212.016 governing plat vacations, replatting and plat amendment within a municipality's jurisdiction. A county that adopts the provisions in those sections may approve a plat vacation, a replat and an amending plat in the same manner and under the same conditions, including the notice and hearing requirements, as a municipal authority responsible for approving plats under those sections.

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

Floor Amendment No. 3 was not offered.

Senator Averitt offered the following amendment to the bill:

Floor Amendment No. 4

Amend **CSHB 1204** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION ____ . Chapter 232, Local Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. DEVELOPMENT REGULATIONS IN
CERTAIN COUNTIES

Sec. 232.151. APPLICABILITY. This subchapter applies only to a county that:

(1) has a population of 125,000 or more;

(2) is in the same metropolitan statistical area as a county with a population of one million or more; and

(3) borders the Brazos River.

Sec. 232.152. AREAS SUBJECT TO REGULATION. (a) This subchapter applies only to the unincorporated areas of the county.

(b) A regulation adopted under this subchapter does not apply to a tract of land that the appraisal district appraises as agricultural or open-space land under Subchapter C or D, Chapter 23, Tax Code.

Sec. 232.153. DEVELOPMENT REGULATIONS GENERALLY. The commissioners court of the county may regulate:

(1) the percentage of a lot that may be occupied or developed;
(2) population density;
(3) the size, design, and construction of buildings;
(4) the location, design, construction, extension, and size of streets and roads;

(5) the location, design, construction, extension, size, and installation of water and wastewater facilities, including the requirements for connecting to a centralized water or wastewater system;

(6) the location, design, construction, extension, size, and installation of drainage facilities and other required public facilities;

(7) the location, design, and construction of parks, playgrounds, and recreational areas; and

(8) the abatement of harm resulting from inadequate water or wastewater facilities.

Sec. 232.154. COMPLIANCE WITH COUNTY PLAN. Development regulations must be:

(1) adopted in accordance with a county plan for growth and development of the county; and

(2) coordinated with the comprehensive plans of municipalities located in the county.

Sec. 232.155. DISTRICTS. (a) The commissioners court may divide the unincorporated area of the county into districts of a number, shape, and size the court considers best for carrying out this subchapter.

(b) Development regulations may vary from district to district.

Sec. 232.156. PROCEDURE GOVERNING ADOPTION OF REGULATIONS AND DISTRICT BOUNDARIES. (a) A development regulation adopted under this subchapter is not effective until it is adopted by the commissioners court after a public hearing. Before the 15th day before the date of the hearing, the commissioners court must publish notice of the hearing in a newspaper of general circulation in the county.

(b) The commissioners court may establish or amend a development regulation only by an order passed by a majority vote of the full membership of the court.

Sec. 232.157. DEVELOPMENT COMMISSION. (a) The commissioners court may appoint a development commission to assist in the implementation and enforcement of development regulations adopted under this subchapter.

(b) The development commission must consist of an ex officio presiding officer who must be a public official in the county and four additional members.

(c) The development commission is advisory only and may recommend appropriate development regulations for the county.

(d) The members of the development commission are subject to the same requirements relating to conflicts of interest that are applicable to the commissioners court under Chapter 171.

Sec. 232.158. FEES. The commissioners court may set reasonable fees related to the implementation and enforcement of this subchapter.

Sec. 232.159. SPECIAL EXCEPTION. (a) A person aggrieved by a development regulation adopted under this subchapter may petition the commissioners court or the development commission, if the commissioners court has established a development commission, for a special exception to a development regulation adopted by the commissioners court.

(b) The commissioners court shall adopt procedures governing applications, notice, hearings, and other matters relating to the grant of a special exception.

Sec. 232.160. ENFORCEMENT; PENALTY. (a) The commissioners court may adopt orders to enforce this subchapter or an order or development regulation adopted under this subchapter.

(b) A person commits an offense if the person violates this subchapter or an order or development regulation adopted under this subchapter. An offense under this subsection is a misdemeanor punishable by a fine of not less than \$500 or more than \$1,000. Each day that a violation occurs constitutes a separate offense. Trial shall be in the district court.

Sec. 232.161. COOPERATION WITH MUNICIPALITIES. The commissioners court by order may enter into agreements with any municipality located in the county to assist in the implementation and enforcement of development regulations adopted under this subchapter.

Sec. 232.162. CONFLICT WITH OTHER LAWS. If a development regulation adopted under this subchapter imposes higher standards than those required under another statute or local order or regulation, the regulation adopted under this subchapter controls. If the other statute or local order or regulation imposes higher standards, that statute, order, or regulation controls.

SECTION _____. The heading to Chapter 232, Local Government Code, is amended to read as follows:

**CHAPTER 232. COUNTY REGULATION OF SUBDIVISIONS AND
PROPERTY DEVELOPMENT**

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

(President in Chair)

Senator Williams offered the following amendment to the bill:

Floor Amendment No. 5

Amend **CSHB 1204** as follows:

(1) Immediately following SECTION 19 of the bill (Senate committee printing page 7, between lines 60 and 61), insert the following new SECTION:

SECTION 20. Subchapter B, Chapter 43, Local Government Code, is amended by adding Section 43.0215 to read as follows:

Sec. 43.0215. VOTER APPROVAL OF ANNEXATION REQUIRED IN CERTAIN MUNICIPALITIES. (a) This section applies only to a municipality with a population of 1.9 million or more.

(b) The municipality may not annex an area for full or limited purposes unless:

(1) the municipality holds in the area an election, at which the qualified voters of the area may vote, on the question of the annexation; and

(2) a majority of the votes received at the election approve the annexation.

(c) This section does not apply to an annexation of an area if:

(1) no qualified voters reside in the area;

(2) the annexation is authorized by or subject to another section of this chapter, other than Section 43.021; or

(3) the annexation is initiated by the municipality in response to a petition under Section 42.041.

(d) The municipality shall pay for the cost of holding the election.

(2) Immediately following SECTION 25 of the bill (Senate committee printing page 8, between lines 31 and 32), insert the following appropriately numbered SECTION:

SECTION ____ . Section 43.0215, Local Government Code, as added by this Act, applies only to an annexation for which the first hearing notice required by Section 43.052, Local Government Code, is published on or after September 1, 2003. An annexation for which the first hearing notice is published before that date is governed by the law in effect at the time the notice is published, and the prior law is continued in effect for that purpose.

(3) Renumber existing SECTIONS of the bill appropriately.

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

Senator Armbrister offered the following amendment to the bill:

Floor Amendment No. 6

Amend **CSHB 1204**, on page 1, between lines 17 and 18, by inserting the following SECTION 2, and renumbering the subsequent SECTIONS appropriately:

SECTION 2. Subchapter A, Chapter 211, Local Government Code, is amended by adding Section 211.0076 to read as follows:

Sec. 211.0076. INITIAL ZONING. (a) In this section "initially zone" means the first zoning of non-zoned or interim zoned property in which the individual characteristics or location of the property is considered in determining the zoning classification of the property.

(b) A municipality shall initially zone an area as single-family residential.

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

Senator Lucio offered the following amendment to the bill:

Floor Amendment No. 7

Amend **CSHB 1204** as follows:

(1) In the recital to SECTION 16 of the bill (Senate committee printing page 6, line 36), strike "Subchapter F" and substitute "Subchapters F and G".

(2) In SECTION 16 of the bill, after added Section 232.155, Local Government Code (Senate committee printing page 7, between lines 9 and 10), insert the following:

SUBCHAPTER G. DEVELOPMENT REGULATION IN COUNTY
NEAR INTERNATIONAL BORDER

Sec. 232.171. APPLICABILITY. This subchapter applies only to a county that includes territory located within 50 miles of an international border.

Sec. 232.172. REGULATORY AUTHORITY. (a) The commissioners court of the county by order may regulate residential land development in the unincorporated area of the county to prevent the proliferation of colonias by:

(1) adopting regulations relating to:

(A) maximum densities, including the size of lots;

(B) the height, number of stories, size, or number of buildings or other structures that may be located on a lot or tract; and

(C) the location of buildings and other structures on a lot or tract; and

(2) adopting building codes to promote safe and uniform building, plumbing, and electrical standards.

(b) If a tract of land is appraised as agricultural or open-space land by the appraisal district, the commissioners court may not regulate land development on that tract under the authority granted by Subsection (a)(1)(B), (a)(1)(C), or (a)(2).

(c) The authority granted under this section does not authorize the commissioners court to adopt an order regulating commercial property that is uninhabitable.

Sec. 232.173. BUILDING PERMITS. (a) The county shall issue a building permit if the person submitting the application for the permit:

(1) files information relating to the location of the residence;

(2) files the building plans for the residence; and

(3) complies with the applicable regulations relating to the issuance of the permit.

(b) The county may charge a reasonable building permit fee.

(c) The county shall deposit a fee collected under this section in an account in the general fund of the county dedicated to the building permit program. The funds in the account may be used only for the purpose of administering the building permit program.

Sec. 232.174. MUNICIPAL ORDINANCE PREVAILS OVER COUNTY ORDER. If an order adopted under this subchapter conflicts with an ordinance of a municipality, the municipal ordinance prevails within the municipality's jurisdiction to the extent of the conflict.

Sec. 232.175. EXISTING COUNTY AUTHORITY UNAFFECTED. The authority granted by this subchapter does not affect the authority of the commissioners court to adopt an order or ordinance under other law.

Sec. 232.176. INJUNCTION. The county, in a suit brought by the county attorney or other prosecuting attorney representing the county in the district court, is entitled to appropriate injunctive relief to prevent the violation or threatened violation of an order adopted under this subchapter from continuing or occurring.

Sec. 232.177. PENALTY; EXCEPTION. (a) A person commits an offense if the person violates a restriction or prohibition imposed by an order adopted under this subchapter. An offense under this section is a Class C misdemeanor.

(b) If the Texas Department of Housing and Community Affairs classifies a household as a low-income household, a penalty may not be assessed under this section against the owner-occupant of the residential dwelling for a building standards or building code violation relating to the dwelling unless the county makes available to the owner-occupant housing rehabilitation assistance in an amount sufficient to cure the violation. The assistance provided must be a grant or loan and must be on payment terms that do not cause the housing expenses of the owner-occupant to exceed 30 percent of the owner-occupant's net income.

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

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

CSHB 1204 as amended was passed to third reading by a viva voce vote.

RECORD OF VOTE

Senator Nelson asked to be recorded as voting "Nay" on the passage of **CSHB 1204** to third reading.

COMMITTEE SUBSTITUTE HOUSE BILL 1204 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1204** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 2.

Yeas: Armbrister, Averitt, Barrientos, Bivins, Brimer, Carona, Deuell, Duncan, Ellis, Estes, Fraser, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Ogden, Ratliff, Shapiro, Shapleigh, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Nelson, Staples.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 2. (Same as previous roll call)

(Senator Armbrister in Chair)

HOUSE BILL 3232 ON SECOND READING

Senator Brimer moved to suspend the regular order of business to take up for consideration **HB 3232** at this time on its second reading:

HB 3232, Relating to the collection of costs incurred by a municipality in remedying substandard conditions on a property.

The motion prevailed by a viva voce vote.

The bill was read second time.

Senator Jackson offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 3232** by inserting the following section and renumbering the subsequent sections appropriately:

SECTION _____. Subchapter A, Chapter 342, Health and Safety Code, Section 342.0075 applies only to a county with two or more municipalities each with a population of 300,000 or more.

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

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

HB 3232 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 3232 ON THIRD READING

Senator Brimer moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3232** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

HOUSE BILL 76 ON SECOND READING

On motion of Senator Van de Putte and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 76** at this time on its second reading:

HB 76, Relating to procedures adopted by a state entity to ensure an employment preference for veterans.

The bill was read second time.

Senator Barrientos offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 76** by adding appropriately numbered new SECTIONS to the bill and renumbering subsequent SECTIONS accordingly, to read as follows:

SECTION _____. Chapter 657, Government Code, is amended by designating Sections 657.001 through 657.009 as Subchapter A and adding a heading for Subchapter A to read as follows:

SUBCHAPTER A. GENERAL PROVISIONS

SECTION _____. Chapter 657, Government Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. ENFORCEMENT

Sec. 657.051. COMPLIANCE WITH LAW; HEARING. (a) If a public official fails to comply with a provision of this chapter, a district court in the district in which the individual is a public official may require the public official to comply with the provision on the filing of a motion, petition, or other appropriate pleading by an individual entitled to a benefit under the provision.

(b) The court shall order a speedy hearing and shall advance the hearing on the calendar.

Sec. 657.052. ENFORCEMENT BY DISTRICT OR COUNTY ATTORNEY. On application to the district attorney, criminal district attorney, or county attorney of the appropriate county by an individual who the attorney reasonably believes is entitled to the benefit of a provision of this chapter, the district attorney, criminal district attorney, or county attorney shall:

(1) appear and act as attorney for the individual in an amicable adjustment of the claim; or

(2) file or prosecute a motion, petition, or other appropriate pleading to specifically require compliance with the provision.

Sec. 657.053. COURT COSTS AND FEES. A person applying for a preference under this chapter may not be charged court costs or fees for a claim, motion, petition, or other pleading filed under Section 657.051.

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

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

HB 76 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 76 ON THIRD READING

Senator Van de Putte moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 76** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

HOUSE BILL 1082 ON SECOND READING

On motion of Senator Staples and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1082** at this time on its second reading:

HB 1082, Relating to the appraisal of property by appraisal districts.

The bill was read second time.

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1082**, between SECTIONS 2 and 3 of the bill (committee printing, on page 1, between lines 63 and 64), by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONS accordingly:

SECTION _____. Section 42.221, Tax Code, is amended to read as follows:

Sec. 42.221. CONSOLIDATED APPEALS FOR MULTICOUNTY PROPERTY [~~PIPELINE OR ELECTRIC LINE~~]. (a) The owner of property of a telecommunications provider, as defined by Section 51.002, Utilities Code, or the owner of property regulated by the Railroad Commission of Texas, the federal Surface

Transportation Board, or the Federal Energy Regulatory Commission ~~[an oil or gas pipeline or electric transmission or distribution line]~~ that runs through or operates in more than one county and is appraised by more than one appraisal district may appeal an order of an appraisal review board relating to the property running through or operating in more than one county ~~[pipeline or electric line, to property attached to or connected with the pipeline or electric line, or to an easement or other real property on which the pipeline or electric line is located]~~ to the district court of any county in which a portion of the property ~~[pipeline or electric line]~~ is located or operated if the order relating to that portion of the property ~~[pipeline or electric line]~~ is appealed.

(b) A petition for review of each appraisal review board order under this section must be filed with the court as provided by Section 42.21. The fee for filing each additional petition for review under this section ~~[relating to a pipeline or electric line]~~ after the first petition for review relating to the same property ~~[pipeline or electric line]~~ is filed for a tax year is \$5.

(c) If only one appeal by the owner of property subject to this section ~~[an oil or gas pipeline or electric line]~~ is pending before the court in an appeal from the decision of an appraisal review board of a district other than the appraisal district for that county, any party to the suit may, not earlier than the 30th day before and not later than the 10th day before the date set for the hearing, make a motion to transfer the suit to a district court of the county in which the appraisal review board from which the appeal is taken is located. In the absence of a showing that further appeals under this section will be filed, the court shall transfer the suit.

(d) When the owner files the first petition for review under this section for a ~~[pipeline or electric line for a]~~ tax year, the owner shall include with the petition a list of each appraisal district in which the property ~~[pipeline or electric line]~~ is appraised for taxation in that tax year.

(e) The court shall consolidate all the appeals for a tax year relating to a single property subject to this section ~~[pipeline or electric line]~~ for which a petition for review is filed with the court and may consolidate other appeals relating to other property subject to this section ~~[pipelines or electric lines]~~ of the same owner if the property is ~~[pipelines or electric lines are]~~ located in one or more of the counties on the list required by Subsection (d). Except as provided by this subsection, on the motion of the ~~[pipeline or electric line]~~ owner of a property subject to this section the court shall grant a continuance to provide the owner with an opportunity to include in the proceeding appeals of appraisal review board orders from additional appraisal districts. The court may not grant a continuance to include an appeal of an appraisal review board order that relates to a property subject to this section ~~[the pipeline or electric line]~~ in that tax year after the time for filing a petition for review of that order has expired.

(f) This section does not affect the property owner's right to file a petition for review of an individual appraisal district's order relating to a property subject to this section ~~[pipeline or electric line]~~ in the district court in the county in which the appraisal review board is located.

(g) On a joint motion or the separate motions of at least 60 percent of the appraisal districts that are defendants in a consolidated suit filed before the 45th day after the date on which the property owner's petitions for review of the appraisal

review board orders relating to a property subject to this section [~~pipeline or electric line~~] for that tax year must be filed, the court shall transfer the suit to a district court of the county named in the motion or motions if that county is one in which one of the appraisal review boards from which an appeal was taken is located.

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

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 1082** by striking SECTIONS 4 and 5 of the bill (committee printing, page 2, line 50, through page 3, line 8) and renumbering subsequent SECTIONS accordingly.

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

Senator Staples offered the following amendment to the bill:

Floor Amendment No. 3

Amend **HB 1082** as follows:

Strike SECTION 2 on page 1, line 33 and insert the following:

SECTION 2. Section 41.43, Tax Code, is amended as follows:

(a) In a protest authorized by Section 41.41(a)(1) or (2) [~~41.41(1) or (2)~~], the appraisal district has the burden of establishing the value of the property by a preponderance of the evidence presented at the hearing. If the appraisal district fails to meet that standard, the protest shall be determined in favor of the property owner.

(b) A protest on the ground of unequal appraisal of property shall be determined in favor of the protesting party unless the appraisal district establishes that the appraisal ratio of the property is not greater than the median level of appraisal of:

(1) a reasonable and representative sample of other properties in the appraisal district;

(2) a sample of properties in the appraisal district consisting of a reasonable number of other properties similarly situated to, or of the same general kind or character as, the property subject to the protest; or

(3) a reasonable number of comparable properties appropriately adjusted.

(c) For purposes of subsection (b), a protesting party may establish that the appraised value of the property is greater than the median appraised value of a reasonable number of comparable properties appropriately adjusted. This subsection does not limit the methods or evidence that may be used by a protesting party under this section.

(d) [~~(e)~~] For purposes of this section, evidence includes the data, schedules, formulas, or other information used to establish the matter at issue.

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

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

HB 1082 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1082 ON THIRD READING

Senator Staples moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1082** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

HOUSE BILL 2971 ON SECOND READING

On motion of Senator Deuell and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 2971** at this time on its second reading:

HB 2971, Relating to certain license plates issued by the Texas Department of Transportation.

The bill was read second time.

Senator Deuell offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 2971** by adding a new Section ____ to read as follows:

SECTION _____. The Transportation Code is amended by adding a new Subchapter D to Chapter 551 to read as follows:

SUBCHAPTER D. NEIGHBORHOOD ELECTRIC VEHICLES.

Sec. 551.301. REGISTRATION. The department may adopt rules regarding the registration and issuance of license plates for vehicles subject to this subchapter.

Sec. 551.302. DEFINITION. In this subchapter, "neighborhood electric vehicle" means a vehicle subject to Federal Motor Vehicle Standard 500 (49 C.F.R. Section 571.500).

Sec. 551.303. OPERATION ON ROADWAY. (a) A neighborhood electric vehicle may be operated only on a street or highway for which the posted speed limit is 35 miles per hour or less. The vehicle may cross a road or street at an intersection where the road or street has posted speed limit of more than 35 miles per hour.

(b) A county or municipality may prohibit the operation of a neighborhood electric vehicle on any street or highway if the governing body of the county or municipality determines that the prohibition is necessary in the interest of safety.

(c) The department may prohibit the operation of a neighborhood electric vehicle on a highway if it determines that the prohibition is necessary in the interest of safety.

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

Senator Estes offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 2971** by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONS accordingly:

SECTION _____. Subchapter A, Chapter 502, Transportation Code, is amended by adding Section 502.010 to read as follows:

Sec. 502.010. ISSUANCE AND DISPLAY OF LICENSE PLATE FOR CERTAIN VEHICLES. (a) This section applies only to a vehicle that is owned by this state or a political subdivision of this state, other than a law enforcement vehicle that:

(1) is registered under Section 502.206; or

(2) is not registered under Section 502.206, but is intended for use in covert criminal investigations, as designated in the application for registration.

(b) Notwithstanding anything in this chapter to the contrary, including Section 502.180, the department shall issue only one license plate for attachment at the rear of a vehicle to which this section applies.

(c) Notwithstanding anything in this chapter to the contrary, including Section 502.404(a), a person is entitled to operate on a public highway a vehicle to which this section applies that displays only one license plate if the plate is attached at the rear of the vehicle.

(d) In any provision of this chapter that relates to the issuance or display of "license plates," "plates," or a "set of plates," for a vehicle to which this section applies, the term means only one license plate.

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

Senator Wentworth offered the following amendment to the bill:

Floor Amendment No. 3

HB 2971 is amended by adding the following sections, appropriately numbered, and numbering subsequent sections appropriately:

SECTION _____. Subtitle A, Title 7, Transportation Code, is amended by adding Chapter 504 to read as follows:

CHAPTER 504. SPECIALTY LICENSE PLATES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 504.001. DEFINITIONS. (a) In this chapter, "commission" and "director" have the meanings assigned by Section 201.001.

(b) A word or phrase that is not defined by this chapter but is defined by Section 502.001 has the meaning in this chapter that is assigned by that section.

Sec. 504.002. PROVISIONS OF GENERAL APPLICABILITY. Unless expressly provided by this chapter or by department rule:

(1) any vehicle is eligible to be issued specialty license plates, provided that the department may vary the design of a license plate to accommodate or reflect its use on a motor vehicle other than a passenger car or light truck;

(2) an application for specialty license plates must be submitted in the manner specified by the department, provided that if issuance of a specialty license plate is limited to particular persons or motor vehicles, the application must be accompanied by evidence satisfactory to the department that the applicant or the applicant's vehicle is eligible;

(3) the fee for issuance of a specialty license plate is in addition to each other fee that is paid for or at the time of the registration of the motor vehicle and shall be deposited to the credit of state highway fund;

(4) each fee described by this chapter is an annual fee, provided that the department may prorate the fee for a specialty license plate fee on a monthly basis to align the license plate fee to the registration period for the motor vehicle for which the license plate was issued, and if a fee is prorated, the allocation of the fee by this chapter to an account or fund shall be prorated in proportion;

(5) the department is the exclusive owner of the design of each specialty license plate;

(6) the director may refuse to issue a specialty license plate with a design or alphanumeric pattern that the director considers potentially objectionable to one or more members of the public and the director's refusal may not be overturned in the absence of an abuse of discretion;

(7) for each specialty license plate that is issued through a county tax assessor-collector and for which the department is allocated a portion of a fee for administrative costs, the department shall credit 50 cents from its administrative costs to the county treasurer of the applicable county, who shall credit the money to the general fund of the county to defray the costs to the county of administering this chapter;

(8) if a specialty license plate is lost, stolen, or mutilated, an application for a replacement plate must be accompanied by the fee prescribed by Section 502.184(a)(2);

(9) if the owner of a motor vehicle for which a specialty license plate is issued disposes of the vehicle or for any reason ceases to be eligible for that specialty license plate, the owner shall return the specialty license plate to the department; and

(10) a person who is issued a specialty license plate may not transfer it to another person or vehicle without first receiving approval from the department.

Sec. 504.003. SOUVENIR LICENSE PLATES. (a) The department may issue a souvenir version of any specialty license plate for any vehicle, including a motorcycle.

(b) The fee for a single souvenir license plate is \$20. The fee shall be deposited to the credit of the state highway fund.

(c) If the souvenir license plate is personalized, the fee for the plate is \$40. Of the fee:

(1) \$20 shall be deposited to the credit of the state highway fund; and

(2) the remainder shall be deposited to the credit of the general revenue fund.

(d) A souvenir license plate may not be used on a motor vehicle including a motorcycle and is not an insignia of registration for a motor vehicle. Each souvenir license plate must be identified by the department in a way that identifies it to law enforcement officers and others as a souvenir license plate.

Sec. 504.004. RULES AND FORMS. The commission may adopt rules and the department may issue forms to implement and administer this chapter.

[Sections 504.005-504.100 reserved for expansion]

SUBCHAPTER B. PERSONALIZED LICENSE PLATES

Sec. 504.101. PERSONALIZED LICENSE PLATES. (a) The department shall issue personalized license plates. The department may not issue more than one set of license plates with the same alphanumeric pattern.

(b) A personalized license plate may be issued for a registration period only if the applicant submits an application and pays the required fee for the applicable registration period. A person who is issued a personalized license plate has first priority on that license plate for each subsequent registration period for which the person submits a new application for that plate.

(c) The fee for issuance of a personalized license plate is \$40.

(d) The department may not issue a replacement set of personalized license plates to the same person before the sixth anniversary of the date of issuance unless the applicant for issuance of replacement plates pays an additional fee of \$30.

(e) Of each fee collected by the department under this section:

(1) \$1.25 shall be used to defray the cost of administering this section; and

(2) the remainder shall be deposited to the credit of the general revenue fund.

Sec. 504.102. PERSONALIZATION OF OTHER SPECIALTY LICENSE PLATES. Unless expressly prohibited by this chapter or department rule, any specialty license plate issued under this chapter may be personalized. If another specialty license plate is personalized, the fee established by Section 504.101(c) shall be added to the fee for issuance of that specialty license plate.

Sec. 504.103. DESIGN AND ALPHANUMERIC PATTERN. The department has sole control over the design, typeface, color, and alphanumeric pattern for a personalized license plate.

[Sections 504.104-504.200 reserved for expansion]

SUBCHAPTER C. LICENSE PLATES FOR VEHICLES USED BY PERSONS WITH DISABILITIES

Sec. 504.201. PERSONS WITH DISABILITIES. (a) In this section:

(1) "Disability" and "mobility problem that substantially impairs a person's ability to ambulate" have the meanings assigned by Section 681.001.

(2) "Legally blind" means a condition described by Section 681.001(2)(B) or (C).

(b) The department shall issue specialty license plates for a motor vehicle that:

(1) has a manufacturer's rated carrying capacity of two tons or less; and

(2) is regularly operated for noncommercial use by or for the transportation of a person with a permanent disability.

(c) An owner of a motor vehicle regularly operated by or for the transportation of a person described by Subsection (a) may apply to the department for registration under this section.

(d) The initial application for specialty license plates under this section must be accompanied by a written statement from a physician who is licensed to practice medicine in this state or in a state adjacent to this state or who is authorized by applicable law to practice medicine in a hospital or other health facility of the Department of Veterans Affairs. If the applicant has a mobility problem caused by a disorder of the foot, the written statement may be issued by a person licensed to practice podiatry in this state or a state adjacent to this state. In this subsection, "podiatry" has the meaning assigned by Section 681.001. The statement must certify that the person making the application or on whose behalf the application is made is

legally blind or has a mobility problem that substantially impairs the person's ability to ambulate. The statement must also certify whether a mobility problem is temporary or permanent. A written statement is not required as acceptable medical proof if:

(1) the person with a disability:

(A) has had a limb, hand, or foot amputated; or

(B) must use a wheelchair; and

(2) the applicant and the county assessor-collector processing the application execute an affidavit attesting to the person's disability.

(e) A person with a disability may receive:

(1) one disabled parking placard under Section 681.002 if the person receives a set of license plates under this section; or

(2) two disabled parking placards under Section 681.002 if the person does not receive a set of license plates under this section.

(f) A license plate issued under this section must include the symbol of access adopted by Rehabilitation International in 1969 at its Eleventh World Congress on Rehabilitation of the Disabled. The symbol must be the same size as the numbers on the license plate.

(g) In addition to a license plate issued under this section, an eligible person is entitled to be issued a set of the license plates for each motor vehicle owned by the person that has a carrying capacity of two tons or less and is equipped with special equipment that:

(1) is designed to allow a person who has lost the use of one or both of the person's legs to operate the vehicle; and

(2) is not standard equipment on that type of vehicle for use by a person who has use of both legs.

Sec. 504.202. VETERANS WITH DISABILITIES. (a) A person entitled to specialty license plates under this section may register, for the person's own use, one vehicle without payment of any fee paid for or at the time of registration except the fee for the license plates. Registration under this section is valid for one year.

(b) The department shall issue a specialty license plate for a motor vehicle that has a manufacturer's rated carrying capacity of two tons or less and that is owned by a veteran of the United States armed forces. A veteran is entitled to register, for the person's own use, two motor vehicles under this section if the person:

(1) has suffered, as a result of military service:

(A) at least a 50 percent service-connected disability; or

(B) a 40 percent service-connected disability because of the amputation of a lower extremity; and

(2) receives compensation from the United States because of the disability.

(c) An organization may register a motor vehicle under this section if:

(1) the vehicle is used exclusively to transport veterans of the United States armed forces who have suffered, as a result of military service, a service-connected disability; and

(2) the veterans are not charged for the transportation.

(d) A statement by the veterans county service officer of the county in which a vehicle described by Subsection (b) is registered or by the Department of Veterans Affairs that a vehicle is used exclusively to transport veterans with disabilities without charge is satisfactory proof of eligibility for an organization.

(e) License plates issued under this section must include:

(1) the letters "DV" as a prefix or suffix to any numeral on the plate; and

(2) the words "Disabled Veteran and "U.S. Armed Forces" at the bottom of each license plate.

(f) The fee for the first set of license plates is \$3. The fee for each additional set of license plates is \$15. If a license plate is lost, stolen, or mutilated, on payment of a \$1 fee, the department shall issue a set of replacement plates.

Sec. 504.203. ISSUANCE OF DISABLED LICENSE PLATES TO CERTAIN INSTITUTIONS. (a) The department shall issue specialty license plates under this subchapter for a van or bus operated by an institution, facility, or residential retirement community for the elderly or for veterans in which an eligible person resides, including:

(1) an institution that holds a license issued under Chapter 242, Health and Safety Code; or

(2) a facility that holds a license issued under Chapter 246 or 247 of that code.

(b) An application for license plates under this section must be accompanied by a written statement signed by the administrator or manager of the institution, facility, or retirement community certifying that the institution, facility, or retirement community regularly transports, as a part of the services that the institution, facility, or retirement community provides, one or more eligible persons who reside in the institution, facility, or retirement community. The department shall determine the eligibility of the institution, facility, or retirement community on the evidence the applicant provides.

(c) The application and eligibility requirements for a license plate under this section are the same as those provided by Sections 504.201 and 504.202, as applicable.

[Sections 504.204-504.300 reserved for expansion]

SUBCHAPTER D. SPECIALTY LICENSE PLATES FOR
THE MILITARY

Sec. 504.301. PROVISIONS GENERALLY APPLICABLE TO MILITARY SPECIALTY LICENSE PLATES. Unless expressly provided by this subchapter or department rule:

(1) the department shall design specialty license plates for the military; and

(2) a person is not eligible to be issued a specialty license plate under this subchapter if the person was discharged from the armed forces under conditions less than honorable.

Sec. 504.302. SURVIVING SPOUSES OF CERTAIN MILITARY VETERANS. (a) The surviving spouse of a person who would be eligible for a specialty license plate under this subchapter is entitled to continue to register one vehicle under the applicable section as long as the spouse remains unmarried.

(b) An applicant for registration under this section must submit proof of the eligibility of the applicant's deceased spouse for the applicable specialty license plate.

(c) A surviving spouse applying for specialty license plates under this section must submit a written statement that the spouse is unmarried. If the surviving spouse is applying for Former Prisoner of War, Pearl Harbor Survivor, or Purple Heart specialty license plates, the statement must be sworn to by the surviving spouse.

Sec. 504.303. MEMBERS OR FORMER MEMBERS OF UNITED STATES ARMED FORCES. (a) The department shall issue specialty license plates for active or former members of the United States armed forces. The license plates must designate the appropriate branch of the United States armed forces.

(b) The fee for issuance of the license plates is:

(1) \$10 for the first set of license plates; and

(2) \$15 for each additional set of license plates.

Sec. 504.304. MEMBERS OF UNITED STATES ARMED FORCES AUXILIARIES. (a) The department shall issue specialty license plates for members of:

(1) the United States Air Force Auxiliary, Civil Air Patrol;

(2) the United States Coast Guard Auxiliary; and

(3) the Marine Corps League or its auxiliary.

(b) The license plates must include the words "Texas Wing Civil Air Patrol," the words "Coast Guard Auxiliary," or the emblem of the Marine Corps League and the words "Marine Corps League," as applicable.

(c) The fee for issuance of the license plates is:

(1) \$10 for the first set of license plates; and

(2) \$15 for each additional set of license plates.

Sec. 504.305. MEMBERS OF TEXAS NATIONAL GUARD, STATE GUARD, OR UNITED STATES ARMED FORCES RESERVES. (a) The department shall issue without charge specialty license plates for:

(1) active members of the Texas National Guard or Texas State Guard;

(2) retired members of the Texas National Guard or Texas State Guard who have completed 20 or more years of satisfactory federal service; and

(3) members of a reserve component of the United States armed forces.

(b) The department shall design the license plates in consultation with the adjutant general. The license plates must include the words "Texas Guard" or "Armed Forces Reserve," as applicable.

(c) A letter from the United States Department of Defense, the Department of the Army, or the Department of the Air Force stating that a retired guard member has 20 or more years of satisfactory federal service is satisfactory proof of eligibility.

Sec. 504.306. PERSONS RETIRED FROM SERVICE IN MERCHANT MARINE OF THE UNITED STATES. (a) The department shall issue specialty license plates for persons retired from service in the merchant marine of the United States. The license plates must include the words "Merchant Marine." A person may be issued only one set of license plates under this section.

(b) The fee for issuance of the license plates is \$10.

Sec. 504.307. AIRBORNE PARACHUTISTS. (a) The department shall issue specialty license plates for persons active and former members of the United States armed services who have:

(1) satisfactorily completed the prescribed proficiency tests while assigned or attached to an airborne unit or the Airborne Department of the United States Army Infantry School; or

(2) participated in at least one combat parachute jump.

(b) The license plates must include a likeness of the parachutist badge authorized by the Department of the Army.

(c) The fee for issuance of the license plates is:

(1) \$10 for the first set of license plates; and

(2) \$15 for each additional set of license plates.

Sec. 504.308. DISTINGUISHED FLYING CROSS MEDAL RECIPIENTS. (a) The department shall issue specialty license plates for persons who have received the Distinguished Flying Cross Medal. The license plates must bear a depiction of the Distinguished Flying Cross medal and the words "Distinguished Flying Cross" at the bottom of each license plate.

(b) The fee for issuance of the license plates is \$3.

Sec. 504.309. MILITARY ACADEMY LICENSE PLATES. The department shall issue without charge specialty license plates for persons who:

(1) are graduates of the United States Military Academy, the United States Naval Academy, or the United States Air Force Academy; and

(2) are current or former commissioned officers of the United States armed forces.

Sec. 504.310. WORLD WAR II VETERANS. The department shall issue without charge specialty license plates for persons who served in the United States or Allied armed forces during World War II. The license plates must include the words "WWII Veteran."

Sec. 504.311. KOREAN WAR VETERANS. The department shall issue without charge specialty license plates for persons who served in the United States armed forces after June 26, 1950, and before February 1, 1955. License plates issued under this section must include the words "Korea Veteran."

Sec. 504.312. VIETNAM VETERANS. (a) The department shall issue without charge specialty license plates for persons who served in the United States armed forces during:

(1) the period beginning on February 28, 1961, and ending on May 7, 1975, in the case of a veteran who served in the Republic of Vietnam during that period; or

(2) the period beginning on August 5, 1964, and ending on May 7, 1975, in all other cases.

(b) License plates issued under this section must include the words "Vietnam Veteran."

Sec. 504.313. DESERT SHIELD OR DESERT STORM VETERANS. The department shall issue without charge specialty license plates for persons who served in the United States armed forces after August 1, 1990, and before April 12, 1991. License plates issued under this section must include the words "Desert Storm."

Sec. 504.3135. OPERATION IRAQI FREEDOM. The department shall issue without charge specialty license plates for persons who served in the United States armed forces on or after November 8, 2002, or on or before May 1, 2003. License plates issued under this section must include the words "Operation Iraqi Freedom."

Sec. 504.314. ENDURING FREEDOM VETERANS. The department shall issue without charge specialty license plates for persons who served in the United States armed services and participated in Operation Enduring Freedom. The license plates must include the words "Enduring Freedom."

Sec. 504.315. MILITARY SPECIALTY LICENSE PLATES FOR EXTRAORDINARY SERVICE. (a) A person entitled to specialty license plates under this section may register, for the person's own use, one vehicle without payment of any fee paid for or at the time of registration except the fee for the license plates. Registration is valid for one year and may be renewed without charge.

(b) The fee for issuance of the license plates is:

- (1) \$3 for the first set of license plates; and
- (2) \$15 for each additional set of license plates.

(c) The department shall issue specialty license plates for a person who was captured and incarcerated by an enemy of the United States during a period of conflict with the United States. The license plates must show that the recipient is a former prisoner of war.

(d) The department shall issue specialty license plates for survivors of the attack on Pearl Harbor on December 7, 1941. The license plates must include the words "Pearl Harbor Survivor" and must be consecutively numbered. A person is eligible if the person:

- (1) served in the United States armed forces;
- (2) was stationed in the Hawaiian Islands on December 7, 1941; and
- (3) survived the attack on Pearl Harbor on December 7, 1941.

(e) The department shall issue specialty license plates to a recipient of a Congressional Medal of Honor awarded under Title 10, United States Code. The department shall assign the license plate number, and the plates may not be personalized.

(f) The department shall issue specialty license plates for recipients of the Air Force Cross or Distinguished Service Cross, the Army Distinguished Service Cross, the Navy Cross, or the Medal of Honor. The license plates must include the words "Legion of Valor."

(g) The department shall issue specialty license plates for recipients of the Purple Heart. License plates issued under this section must include:

- (1) the Purple Heart emblem;
- (2) the words "Purple Heart" at the bottom of each plate; and
- (3) the letters "PH" as a prefix or suffix to the numerals on the plate if the plate is not personalized.

[Sections 504.316-504.400 reserved for expansion]
SUBCHAPTER E. SPECIALTY LICENSE PLATES WITH
RESTRICTED DISTRIBUTION

Sec. 504.401. STATE OFFICIALS. (a) The department shall issue without charge specialty license plates to a state official. The license plates must include the words "State Official."

(b) A state official may be issued three sets of license plates under this section.

(c) The license plates remain valid until December 31 of each year.

(d) In this section, "state official" means:

- (1) a member of the legislature;
- (2) the governor;
- (3) the lieutenant governor;
- (4) a justice of the supreme court;
- (5) a judge of the court of criminal appeals;
- (6) the attorney general;
- (7) the commissioner of the General Land Office;
- (8) the comptroller;
- (9) a member of the Railroad Commission of Texas;
- (10) the commissioner of agriculture;
- (11) the secretary of state; or
- (12) a member of the State Board of Education.

Sec. 504.402. MEMBERS OF CONGRESS. (a) The department shall issue without charge specialty license plates for members of congress. License plates issued under this section must include the words "U.S. Congress."

(b) A person may be issued three sets of license plates under this section.

(c) The license plates remain valid until December 31 of each year.

Sec. 504.403. STATE AND FEDERAL JUDGES. (a) The department shall issue without charge specialty license plates for a current or visiting state or federal judge. The license plates must include the words "State Judge" or "U.S. Judge," as appropriate.

(b) A person may be issued three sets of license plates under this section.

(c) The license plates remain valid until December 31 of each year.

(d) In this section:

(1) "Federal judge" means:

- (A) a judge of the Fifth Circuit Court of Appeals;
- (B) a judge or magistrate of a United States district court; or
- (C) a judge of a United States bankruptcy court.

(2) "State judge" means:

- (A) a justice of the supreme court;
- (B) a judge of the court of criminal appeals;
- (C) a judge of a court of appeals;
- (D) a district court judge;
- (E) a presiding judge of an administrative judicial district; or
- (F) a statutory county court judge.

Sec. 504.404. FEDERAL ADMINISTRATIVE LAW JUDGES. (a) The department shall issue without charge specialty license plates for current federal administrative law judges. The license plates shall bear the words "U.S. A.L. Judge."

(b) A person may be issued three sets of license plates under this section.

Sec. 504.405. COUNTY JUDGES. (a) The department shall issue without charge specialty license plates for current county judges of this state. The license plates shall bear the words "County Judge."

(b) A person may be issued three sets of license plates under this section.

(c) In this section, "county judge" means the judge of the county court established by Section 15, Article V, Texas Constitution.

Sec. 504.406. TEXAS CONSTABLES. The department shall issue without charge specialty license plates for Texas constables. The license plates shall bear the words "Texas Constable."

Sec. 504.407. PEACE OFFICERS WOUNDED OR KILLED IN LINE OF DUTY. (a) The department shall issue specialty license plates for:

(1) a person wounded in the line of duty as a peace officer; or

(2) a surviving spouse, parent, brother, sister, or adult child, including an adopted child or stepchild, of a person killed in the line of duty as a peace officer.

(b) License plates issued under this section must include the words "To Protect and Serve" above an insignia depicting a yellow rose superimposed over the outline of a badge.

(c) The fee for issuance of the license plates is \$20.

(d) In this section, "peace officer" has the meaning assigned by Section 1.07, Penal Code.

Sec. 504.408. GOLD STAR MOTHERS. (a) The department shall issue specialty license plates for the mother of a person who died while serving in the United States armed forces. License plates issued under this section must include the words "Gold Star Mother" and a gold star. A person may not be issued more than one set of the license plates at a time.

(b) The fee for issuance of the license plates is \$10.

Sec. 504.409. VOLUNTEER FIREFIGHTERS. (a) The department shall issue specialty license plates for volunteer firefighters certified by:

(1) the Texas Commission on Fire Protection; or

(2) the State Firemen's and Fire Marshals' Association of Texas.

(b) The fee for issuance of the license plates is \$4.

(c) A person may be issued only one set of the license plates.

Sec. 504.410. EMERGENCY MEDICAL SERVICES PERSONNEL. The department shall issue specialty license plates for emergency medical services personnel certified by the Texas Department of health under Subchapter C, Chapter 773, Health and Safety Code.

(b) The fee for issuance of the license plates is \$8.

(c) A person may be issued only one set of the license plates.

Sec. 504.411. HONORARY CONSULS. (a) The department shall issue specialty license plates for a person who is an honorary consul authorized by the United States to perform consular duties. License plates issued under this section must include the words "Honorary Consul."

(b) The fee for issuance of the license plates is \$40.

Sec. 504.412. FOREIGN ORGANIZATION VEHICLES. (a) The department shall issue specialty license plates for an instrumentality established by a foreign government recognized by the United States before January 1, 1979, that is without official representation or diplomatic relations with the United States. The license plates must include the words "Foreign Organization" and shall remain valid for five years.

(b) A person entitled to specialty license plates under this section may register the vehicle without payment of any fee paid for or at the time of registration.

Sec. 504.413. MEMBERS OF AMERICAN LEGION. (a) The department shall issue specialty license plates for members of the American Legion. The license plates shall include the words "Still Serving America" and the emblem of the American Legion. The department shall design the license plates in consultation with the American Legion.

(b) The fee for the license plates is \$30.

(c) After deduction of \$8 to reimburse the department for its administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the American Legion, Department of Texas account in the state treasury. Money in the account may be used only by the Texas Veterans Commission in making grants to the American Legion Endowment Fund for scholarships and youth programs sponsored by the American Legion, Department of Texas.

[Sections 504.414-504.500 reserved for expansion]

SUBCHAPTER F. SPECIALTY LICENSE PLATES FOR CERTAIN VEHICLES

Sec. 504.501. CLASSIC MOTOR VEHICLES. (a) The department shall issue specialty license plates for a motor vehicle that is at least 25 years old. The license plates must include the words "Classic Auto," "Classic Motorcycle," or "Classic Truck" or a similar designation, as appropriate.

(b) A person eligible for the license plates may instead use license plates that were issued by this state in the same year as the model year of the vehicle and are approved by the department. The department may require the attachment of a registration insignia to the license plate in a manner that does not affect the display of information originally on the license plate.

(c) The fee for issuance or approval of license plates under this section is \$15.

Sec. 504.502. CERTAIN EXHIBITION VEHICLES; OFFENSE. (a) The department shall issue specialty license plates for a passenger car, truck, motorcycle, or former military vehicle that:

(1) is at least 25 years old, if the vehicle is a passenger car, truck, or motorcycle;

(2) is a collector's item;

(3) is used exclusively for exhibitions, club activities, parades, and other functions of public interest and is not used for regular transportation; and

(4) does not carry advertising.

(b) The license plates must include the words "Antique Auto," "Antique Truck," "Antique Motorcycle," or "Military Vehicle," as appropriate.

(c) A person eligible for the license plates may instead use license plates issued by this state in the same year as the model year of the vehicle and approved by the department, provided that a passenger car must bear passenger car or truck license plates, and a truck must bear passenger car or truck license plates. The department may require attachment of a registration insignia to the license plate in a manner that does not affect the display of information originally on the license plate.

(d) License plates issued or approved under this section expire on the fifth anniversary of the date of issuance or approval.

(e) The fee for issuance or approval of license plates under this section is:

(1) \$10 for each year or portion of a year remaining in the five-year registration period if the vehicle was manufactured in 1921 or later; or

(2) \$8 for each year or portion of a year remaining in the five-year registration period if the vehicle was manufactured before 1921.

(f) The department may exempt a former military vehicle from the requirement to display a license plate or registration insignia if the exemption is necessary to maintain the vehicle's accurate military markings. The department may approve an alternative registration insignia that is compatible with the vehicle's original markings.

(g) A person entitled to specialty license plates or to department approval under this section may register the vehicle without payment of any fees paid for or at the time of registration except the fee for the license plate. An owner of a vehicle registered under this subsection who violates this section commits an offense. An offense under this section is a misdemeanor punishable by a fine of not less than \$5 or more than \$200.

(h) Notwithstanding any other provision of law, a vehicle issued license plates under Subsection (a) shall be required to attach and display only one license plate on the rear of the vehicle.

(i) In this section, "former military vehicle" means a vehicle, including a trailer, regardless of the vehicle's size, weight, or year of manufacture, that:

(1) was manufactured for use in any country's military forces; and

(2) is maintained to represent its military design and markings accurately.

Sec. 504.503. MUNICIPAL AND PRIVATE BUSES. (a) The department shall issue without charge specialty license plates for municipal buses and private buses. The license plates must include the words "City Bus" or "Private Bus," as appropriate.

(b) In this section, "private bus" means a bus that:

(1) is not operated for hire; and

(2) is not classified as a municipal bus or a motor bus.

Sec. 504.504. CERTAIN FARM VEHICLES AND DRILLING AND CONSTRUCTION EQUIPMENT. (a) The department shall issue specialty license plates to a vehicle described by Subsection (b) or (c). The fee for the license plates is \$5.

(b) An owner is not required to register a vehicle that is used only temporarily on the highways if the vehicle is:

(1) a farm trailer or farm semitrailer with a gross weight of more than 4,000 pounds but not more than 34,000 pounds that is used exclusively to transport:

(A) seasonally harvested agricultural products or livestock from the place of production to the place of processing, market, or storage; or

(B) farm supplies from the place of loading to the farm;

(2) machinery used exclusively for the purpose of drilling water wells; or

(3) construction machinery that is not designed to transport persons or property on a public highway.

(c) An owner is not required to register a vehicle that is:

(1) a farm trailer or farm semitrailer owned by a cotton gin and used exclusively to transport agricultural products without charge from the place of production to the place of processing, market, or storage;

(2) a trailer used exclusively to transport fertilizer without charge from a place of supply or storage to a farm; or

(3) a trailer used exclusively to transport cottonseed without charge from a place of supply or storage to a farm or place of processing.

(d) A vehicle described by Subsection (b) is exempt from the inspection requirements of Subchapters B and F, Chapter 548.

(e) This section does not apply to a farm trailer or farm semitrailer that:

(1) is used for hire;

(2) has metal tires operating in contact with the highway;

(3) is not equipped with an adequate hitch pinned or locked so that it will remain securely engaged to the towing vehicle while in motion; or

(4) is not operated and equipped in compliance with all other law.

(f) A vehicle to which this section applies that is operated on a public highway in violation of this section is considered to be operated while unregistered and is immediately subject to the applicable registration fees and penalties prescribed by Chapter 502.

(g) In this section, the gross weight of a trailer or semitrailer is the combined weight of the vehicle and the load carried on the highway.

Sec. 504.505. COTTON VEHICLES. (a) The department shall issue specialty license plates for a single motor vehicle that is:

(1) used only to transport seed cotton modules, cotton, cotton burrs, or equipment used in transporting or processing cotton; and

(2) not more than 10 feet in width.

(b) The license plates must include the words "Cotton Vehicle."

(c) The initial fee for issuance of the license plates is \$8. The license plates may be renewed without payment of a fee.

Sec. 504.506. CERTAIN LOG LOADER VEHICLES. (a) The department shall issue specialty license plates for a vehicle that is temporarily operated on public highways, during daylight hours only, and on which machinery is mounted solely to load logs on other vehicles.

(b) The fee for issuance of the license plates is \$62.50.

(c) A person entitled to specialty license plates under this section may register the vehicle without payment of any fee paid for or at the time of registration other than the fee for the license plates.

(d) A vehicle having a license plate issued under this section is exempt from the inspection requirements of Chapter 548.

(e) This section does not apply to a vehicle used to haul logs.

(f) A vehicle to which this section applies that is operated on a public highway in violation of this section is considered to be operated or moved while unregistered and is immediately subject to the applicable fees and penalties prescribed by Chapter 502.

Sec. 504.507. FORESTRY VEHICLES. (a) The department shall issue specialty license plates for forestry vehicles. License plates issued under this section must include the words "Forestry Vehicle."

(b) The fee for issuance of the license plates is \$8. The department shall:

(1) also collect any additional fee that a county imposes under this chapter for registration of a forestry vehicle; and

(2) send the fee to the appropriate county for disposition.

(c) In this section, "forestry vehicle" means a vehicle used exclusively for transporting forest products in their natural state, including logs, debarked logs, untreated ties, stave bolts, plywood bolts, pulpwood billets, wood chips, stumps, sawdust, moss, bark, wood shavings, and property used in production of those products.

Sec. 504.508. TOW TRUCKS. (a) The department shall issue specialty license plates for a commercial motor vehicle used as a tow truck. The license plates must include the words "Tow Truck." A vehicle used commercially as a tow truck shall display license plates issued under this section.

(b) The fee for issuance of the license plates is \$15.

(c) Proof of eligibility for license plates under this section must include a copy of the registration certificate issued by the department for the tow truck.

(d) In this section, "tow truck" means a motor vehicle adapted or used to tow, winch, or otherwise move another motor vehicle.

Sec. 504.509. VEHICLES CARRYING MOBILE AMATEUR RADIO EQUIPMENT. (a) The department shall issue specialty license plates for a person who holds an amateur radio station license issued by the Federal Communications Commission and who operates receiving and transmitting mobile amateur radio equipment. The license plates shall include the person's amateur call letters as assigned by the Federal Communications Commission. A person may register more than one vehicle equipped with mobile amateur radio equipment under this section, and the department shall issue license plates that include the same amateur call letters for each vehicle.

(b) The fee for issuance of the license plates is \$2 for the first year and \$1 for each subsequent year.

Sec. 504.510. GOLF CART LICENSE PLATES. (a) The department shall issue specialty license plates for an eligible golf cart.

(b) The fee for issuance of the license plates is \$10.

(c) A person entitled to specialty license plates under this section may register the golf cart without payment of any fees paid for or at the time of registration other than the fee for the license plates. This section does not authorize the operation of a golf cart on a public road where it is otherwise prohibited by law.

(d) This section applies only to an owner of a golf cart who resides:

(1) on real property that is owned or under the control of the United States Corps of Engineers and is required by that agency to register the owner's golf cart under this chapter; and

(2) in a county that borders another state and has a population of more than 110,000 but less than 111,000.

[Sections 504.511-504.600 reserved for expansion]

SUBCHAPTER G. SPECIALTY LICENSE PLATES FOR
GENERAL DISTRIBUTION

Sec. 504.601. GENERAL PROVISIONS APPLICABLE TO ALL SPECIALTY LICENSE PLATES FOR GENERAL DISTRIBUTION. Unless expressly provided by this subchapter or department rule:

(1) the fee for issuance of a license plate under this subchapter is \$30; and

(2) of each fee received under this subchapter, the department shall use \$8 to defray its administrative costs in complying with this subchapter.

Sec. 504.602. KEEP TEXAS BEAUTIFUL LICENSE PLATES. (a) The department shall issue specialty license plates including the words "Keep Texas Beautiful." The department shall design the license plates in consultation with Keep Texas Beautiful, Inc.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be used in connection with the department's litter prevention and community beautification programs.

Sec. 504.603. TEXAS CAPITOL LICENSE PLATES. (a) The department shall issue specialty license plates depicting the State Capitol.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the general revenue fund.

Sec. 504.604. TEXAS COMMISSION ON THE ARTS LICENSE PLATES. (a) The department shall issue specialty license plates including the words "State of the Arts." The department shall design the license plates in consultation with the Texas Commission on the Arts.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Texas Commission on the Arts operating fund established under Section 444.027, Government Code.

Sec. 504.605. ANIMAL FRIENDLY LICENSE PLATES. (a) The department shall issue specialty license plates including the words "Animal Friendly." The department shall design the license plates.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the animal friendly account established by Section 828.014, Health and Safety Code.

Sec. 504.606. BIG BEND NATIONAL PARK LICENSE PLATES. (a) The department shall issue specialty license plates that include one or more graphic images of a significant feature of Big Bend National Park. The department shall design the license plates in consultation with the Parks and Wildlife Department and any organization designated by it.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Big Bend National Park account in the state treasury. Money in the account may be used only by the Parks and Wildlife Department to support the activities of a designated nonprofit organization whose primary purpose is the improvement or preservation of Big Bend National Park.

Sec. 504.607. READ TO SUCCEED. (a) The department shall issue specialty license plates including the words "Read To Succeed." The department shall design the license plates.

(b) After deduction of the department's administrative costs, the remainder of the fee shall be deposited to the credit of the "Read to Succeed" account in the general revenue fund. Money in the account may be used only to provide educational materials for public school libraries. The account is composed of:

(1) money required to be deposited to the credit of the account under this subsection; and

(2) donations made to the account.

Sec. 504.608. TEXAS COMMISSION ON ALCOHOL AND DRUG ABUSE LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "Boy Scouts of America." The department shall design the license plates in consultation with the Boy Scouts of America.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the general revenue fund and may be appropriated only to the Texas Commission on Alcohol and Drug Abuse for drug-abuse prevention programs provided by nonprofit organizations that primarily serve children.

(c) In selecting a program provider under Subsection (b), it is the intent of the legislature that, to the extent permissible, preference be given to a provider whose membership substantially consists of persons who purchase the specialty license plates.

Sec. 504.609. UNITED STATES OLYMPIC COMMITTEE LICENSE PLATES. The department shall issue specialty license plates including the words "United States Olympic Committee." The department shall design the license plates in consultation with the United States Olympic Committee.

Sec. 504.610. TEXAS AEROSPACE COMMISSION LICENSE PLATES. (a) The department shall issue specialty license plates including the words "Texas Aerospace Commission." The department shall design the license plates in consultation with the Texas Aerospace Commission.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the general revenue fund.

Sec. 504.611. VOLUNTEER ADVOCATE PROGRAM LICENSE PLATES. (a) The department shall issue specialty license plates in recognition of children. The department shall design the license plates in consultation with the attorney general.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the attorney general volunteer advocate program account in the general revenue fund. Money

deposited to the credit of the volunteer advocate program account may be used only by the attorney general to fund a contract entered into by the attorney general under Section 264.602, Family Code.

Sec. 504.612. TEXAS YOUNG LAWYERS ASSOCIATION LICENSE PLATES. (a) The department shall issue specialty license plates including the words "And Justice for All." The department shall design the license plates in consultation with the Texas Young Lawyers Association.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the basic civil legal services account established by Section 51.943, Government Code.

Sec. 504.613. HOUSTON LIVESTOCK SHOW AND RODEO LICENSE PLATES. (a) The department shall issue specialty license plates including the words "Houston Livestock Show and Rodeo." The department shall design the license plates in consultation with the Houston Livestock Show and Rodeo.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Houston Livestock Show and Rodeo scholarship account in the state treasury. Money in the account may be used only by the Texas Higher Education Coordinating Board in making grants to benefit the Houston Livestock Show and Rodeo.

Sec. 504.614. PROFESSIONAL SPORTS TEAM LICENSE PLATES. (a) The department may issue specialty license plates that include the name and insignia of a professional sports team located in this state. The department shall design the license plates in consultation with the professional sports team and may enter a trademark license with the professional sports team or its league to implement this section. A license plate may be issued under this section only for a professional sports team that:

(1) certifies to the department that it has determined that at least 3,500 persons will apply for the plates; and

(2) plays its home games in a facility constructed or operated, in whole or in part, with public funds.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be sent to the public entity that provided public funds for the construction or renovation of the facility in which the professional sports team plays its home games or that provides public funds for the operation of that facility. The funds shall be deposited to the credit of the venue project fund, if the public entity has created a venue project fund under Section 334.042 or 335.072, Local Government Code. If the public entity has not created a venue project fund, funds distributed to a public entity under this section must first be used to retire any public debt incurred by the public entity in the construction or acquisition of the facility in which the professional sports team plays its home games. After that debt is retired, funds distributed to the public entity may be spent only for maintenance or improvement of the facility.

(c) In this section:

(1) "Public entity" includes a municipality, county, industrial development corporation, or special district that is authorized to plan, acquire, establish, develop, construct, or renovate a facility in which a professional sports team plays its home games.

(2) "Professional sports team" means a sports team that is a member or an affiliate of a member of the National Football League, National Basketball Association, or National Hockey League or a major league baseball team.

Sec. 504.615. COLLEGIATE LICENSE PLATES. (a) The department shall issue specialty license plates that include the name and insignia of a college. The department shall design the license plates in consultation with the applicable college. The department may issue a license plate under this section only for a college that certifies to the department that it has determined that at least 1,500 persons will apply for the plates.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the general revenue fund. The money may be used only for scholarships to students who demonstrate a need for financial assistance under Texas Higher Education Coordinating Board rule.

(c) If the fee is for the issuance of license plates for a college described by Subsection (e)(1), the money:

(1) shall be deposited to the credit of the institution of higher education designated on the license plates; and

(2) is supplementary and is not income for purposes of reducing general revenue appropriations to that institution of higher education.

(d) If the fee is for the issuance of license plates for a college described by Subsection (e)(2), the money shall be deposited to the credit of the Texas Higher Education Coordinating Board. The money:

(1) shall be allocated to students at the college designated on the plates; and

(2) is in addition to other money that the board may allocate to that college.

(e) In this section, "college" means:

(1) an institution of higher education as defined by Section 61.003, Education Code; or

(2) a private college or university described by Section 61.222, Education Code.

Sec. 504.616. TEXAS READS LICENSE PLATES. (a) The department shall issue specialty license plates including the words "Texas Reads." The department shall design the license plates to incorporate one or more submissions from middle school students in a competition conducted by the department.

(b) After deduction of the department's administrative costs, the remainder of the fee shall be deposited to the credit of the Texas Reads account in the general revenue fund. Money from the account may be used only to make grants under Section 441.0092, Government Code. The account is composed of:

(1) money required to be deposited to the credit of the account under this subsection; and

(2) donations made to the account.

Sec. 504.617. TEXAS. IT'S LIKE A WHOLE OTHER COUNTRY LICENSE PLATES. (a) The department shall issue specialty license plates that include the trademarked Texas patch and the words "Texas. It's Like A Whole Other Country." The department shall design the license plates in consultation with the Texas Department of Economic Development.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the tourism account in the general revenue fund to finance the Texas Department of Economic Development's tourism activities.

Sec. 504.618. CONSERVATION LICENSE PLATES. (a) The department shall issue specialty license plates to support Parks and Wildlife Department activities. The department shall design the license plates in consultation with the Parks and Wildlife Department.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Texas parks and wildlife capital account established by Section 11.043, Parks and Wildlife Code. Money deposited in the Texas parks and wildlife capital account under this section is supplementary and is not income for the purposes of reducing general revenue appropriations to the Parks and Wildlife Department.

Sec. 504.619. TEXAS COMMISSION FOR THE DEAF AND HARD OF HEARING LICENSE PLATES. (a) The department shall issue specialty license plates in support of the Texas Commission for the Deaf and Hard of Hearing. The department shall design the license plates in consultation with the Texas Commission for the Deaf and Hard of Hearing.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates:

(1) shall be deposited to the credit of the general revenue fund; and

(2) may be appropriated only to the Texas Commission for the Deaf and Hard of Hearing for direct services programs, training, and education.

Sec. 504.620. TEXANS CONQUER CANCER LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "Texans Conquer Cancer." The department shall design the license plates in consultation with the Texas Cancer Council.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Texans Conquer Cancer account established by Section 102.017, Health and Safety Code.

Sec. 504.621. SPECIAL OLYMPICS TEXAS LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "Special Olympics Texas." The department shall design the license plates in consultation with Special Olympics Texas.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Special Olympics Texas account established by Section 533.018, Health and Safety Code.

Sec. 504.622. GIRL SCOUT LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "Girl Scouts." The department shall design the license plates in consultation with the Girl Scout Councils of Texas.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Girl Scout account in the state treasury. Money in the account may be used by the Texas Higher Education Coordinating Board in making grants to benefit educational projects sponsored by the Girl Scout Councils of Texas.

Sec. 504.623. TEXAS YMCA. (a) The department shall issue specialty license plates in honor of the Young Men's Christian Association. The department shall design the license plates.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the YMCA account established by Section 7.025, Education Code, as added by Chapter 869, Acts of the 77th Legislature, Regular Session, 2001.

Sec. 504.624. 100TH FOOTBALL SEASON OF STEPHEN F. AUSTIN HIGH SCHOOL. (a) The department shall issue specialty license plates in honor of the 100th football season of Stephen F. Austin High School in Austin. The department shall design the license plates in consultation with the principal of Stephen F. Austin High School.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be sent to the Texas Education Agency for distribution to the Austin Independent School District to be used only for the benefit of the Austin High School Athletic Department.

Sec. 504.625. TEXAS AGRICULTURAL PRODUCTS LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "Go Texan" and the "Go Texan" logo of the Department of Agriculture. The department shall design the license plates in consultation with the commissioner of agriculture.

(b) After deduction of the department's administrative costs, the department shall deposit the remainder of the proceeds to the credit of the "Go Texan" partner program account established by Section 46.008, Agriculture Code.

Sec. 504.626. TEXAS CITRUS INDUSTRY. (a) The department shall issue specialty license plates in honor of the citrus industry in this state. The department shall design the license plates.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of an account in the general revenue fund that may be appropriated only to Texas A&M University-Kingsville to provide financial assistance to graduate students in the College of Agriculture and Human Sciences.

Sec. 504.627. WATERFOWL AND WETLAND CONSERVATION LICENSE PLATES. (a) The department shall issue specialty license plates including one or more graphic images supplied by the Parks and Wildlife Department. The department shall design the license plates in consultation with the Parks and Wildlife Department and any organization designated by it.

(b) After deducting the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of an account in the state treasury. Money in the account may be used only by the Parks and Wildlife Department to support the activities of a designated nonprofit organization whose primary purpose is the conservation of waterfowl and wetland.

Sec. 504.628. UNITED WE STAND LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "United We Stand" and include only the colors red, white, blue, and black.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Texas mobility fund.

Sec. 504.629. TEXAS PGA JUNIOR GOLF LICENSE PLATES. (a) The department shall issue specialty license plates in honor of Texas PGA Junior Golf. The department shall design the license plates in consultation with Texas PGA Junior Golf.

(b) After deduction of the department's administrative costs, the remainder of the fee shall be deposited to the credit of the general revenue fund for use only by the Texas Parks and Wildlife Department in making grants to benefit Texas PGA Junior Golf to provide scholarships to students.

Sec. 504.630. AIR FORCE ASSOCIATION LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "Air Force Association." The department shall design the license plates in consultation with the Air Force Association of Texas.

(b) After deduction of the department's administrative costs, the remainder of the fee shall be deposited to the credit of the Air Force Association of Texas account in the state treasury. Money in the account may be used by the Texas Veterans Commission in making grants to benefit projects sponsored by the Air Force Association of Texas.

Sec. 504.631. TEXAS STATE RIFLE ASSOCIATION LICENSE PLATES. (a) The department shall issue specialty license plates to honor the Texas State Rifle Association.

(b) After deduction of the department's administrative costs, the remainder of the fee shall be deposited to the credit of an account in the general revenue fund that may be appropriated only to the Texas A&M University System to supplement existing and future scholarship programs supported by the Texas State Rifle Association and to provide grants to 4-H Club shooting sports programs to promote safety education.

Sec. 504.632. URBAN FORESTRY LICENSE PLATES. (a) The department shall issue specialty license plates to benefit urban forestry. The department shall design the license plates in consultation with an organization described in Subsection (b).

(b) After deduction of the department's administrative costs, the remainder of the fee shall be deposited to the credit of the urban forestry account in the state treasury. Money in the account may be used by the Texas Forest Service in making grants to support the activities of a nonprofit organization located in Texas whose primary purpose is to sponsor projects involving urban and community:

- (1) tree planting;
- (2) tree preservation; and
- (3) tree education programs.

Sec. 504.633. SHARE THE ROAD LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "Share the Road" and the image of a bicycle or a bicycle with a rider. The department shall design the plates in consultation with the Texas Bicycle Coalition Education Fund.

(b) After deduction of the department's administrative costs, the remainder of the fee shall be deposited to the credit of the share the road account in the state treasury to be used only by the Texas Education Agency to support the activities of a designated nonprofit organization whose primary purpose is to promote bicyclist safety, education, and access through:

(1) education and awareness programs; and

(2) training, workshops, educational materials, and media events.

(c) Up to 25 percent of the amount in Subsection (b) may be used to support the activities of the nonprofit organization in marketing and promoting the share the road concept and license plates.

Sec. 504.634. SAN ANTONIO MISSIONS NATIONAL HISTORICAL PARK LICENSE PLATES. (a) The department shall issue San Antonio Missions National Historical Park specialty license plates. The department shall design the license plates in consultation with Los Compadres de San Antonio Missions National Historical Park.

(b) After deduction of the department's administrative costs, the remainder of the fee shall be deposited to the credit of Los Compadres de San Antonio Missions National Historical Park account in the state treasury. Money in the account may be used only by the Texas Historical Commission in making grants to Los Compadres de San Antonio Missions National Historical Park to be used for the purpose of the preservation and rehabilitation of the San Antonio Missions National Historical Park.

Sec. 504.635. EL PASO MISSION VALLEY LICENSE PLATES. (a) The department shall issue El Paso Mission Valley specialty license plates. The department shall design the license plates in consultation with the Socorro Mission Restoration Effort.

(b) After deduction of the department's administrative costs, the remainder of the fee shall be deposited to the credit of the El Paso Mission Restoration account in the state treasury. Money in the account may be used only by the Texas Historical Commission in making grants to the Socorro Mission Restoration Effort to be used for the purpose of the preservation and rehabilitation of the Socorro Mission.

Sec. 504.636. COTTON BOLL LICENSE PLATES. (a) The department shall issue specialty license plates depicting a graphic image of a cotton boll. The department shall design the license plates in consultation with Texas Cotton Producers, Inc.

(b) After deduction of the department's administrative costs, the remainder of the fee shall be deposited to the credit of the general revenue fund for use only by the Texas Higher Education Coordinating Board in making grants to benefit Texas Cotton Producers, Inc., for the sole purpose of providing scholarships to students who are pursuing a degree in an agricultural field related to the cotton industry while enrolled in an institution of higher education, as defined by Section 61.003, Education Code.

Sec. 504.637. DAUGHTERS OF THE REPUBLIC OF TEXAS LICENSE PLATES. The department shall issue specialty license plates that include the words "Native Texan." The department shall design the license plates in consultation with the Daughters of the Republic of Texas.

(b) After deduction of the department's administrative costs, the remainder of the fee shall be deposited to the credit of the Daughters of the Republic of Texas account in the state treasury. Money in the account may be used only by the Texas Department of Economic Development or its successor agency in making grants to the Daughters of the Republic of Texas to be used only for the purpose of:

(1) preserving Texas historic sites; or

(2) funding educational programs that teach Texas history.

Sec. 504.638. KNIGHTS OF COLUMBUS LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "Knights of Columbus" and the emblem of the Order of the Knights of Columbus. The department shall design the license plates in consultation with the Knights of Columbus.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the State Council Charities account in the general fund. Money in the account may be used only by the Texas Education Agency to make grants to State Council Charities to carry out the purposes of that organization.

Sec. 504.639. TEXAS MUSIC LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "Texas Music." The department shall design the license plates in consultation with the governor's office.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Texas Music Foundation account established by Section 7.026, Education Code.

Sec. 504.640. SPACE SHUTTLE COLUMBIA LICENSE PLATES. (a) The department shall issue Space Shuttle Columbia specialty license plates. The department shall design the license plates in consultation with the Aviation and Space Foundation of Texas.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the general revenue fund and may be used only by the Texas Aerospace Commission or its successor agency in making grants to benefit the Aviation and Space Foundation of Texas for the purposes of furthering aviation and space activities in Texas and providing Columbia Crew memorial scholarships to students.

Sec. 504.641. BE A BLOOD DONOR LICENSE PLATES. (a) The department shall issue Be a Blood Donor specialty license plates. The department shall design the license plates in consultation with the Gulf Coast Regional Blood Center in Houston.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Be a Blood Donor account under Section 162.016, Health and Safety Code.

Sec. 504.642. TEXAS COUNTY CHILD WELFARE BOARD LICENSE PLATES. (a) The department shall issue Texas County Child Welfare Boards specialty license plates. The department shall design the license plates in consultation with the Texas Council of Child Welfare Boards, Inc.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of a special account for abused and neglected children established at the Texas Department of Protective and Regulatory Services. Money in the account may be used only by the

Texas Department of Protective and Regulatory Services to fund programs and services supporting abused and neglected children under Section 264.004, Family Code.

Sec. 504.643. STAR DAY SCHOOL LIBRARY READERS ARE LEADERS LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "STAR Day School Library Readers Are Leaders." The department shall design the license plates in consultation with the State of Texas Anniversary Remembrance (STAR) Day Foundation.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the general revenue fund and used only by the Texas Education Agency in making grants to benefit the State of Texas Anniversary Remembrance (STAR) Day Foundation to be used only for the purpose of providing supplementary reading and service programs in partnership with public schools in this state for seventh and eighth grade public school students.

Sec. 504.644. MARINE MAMMAL RECOVERY LICENSE PLATES. (a) The department shall issue Marine Mammal Recovery specialty license plates. The department shall design the license plates in consultation with the Parks and Wildlife Department and the Texas Marine Mammal Stranding Network.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of an account in the state treasury. Money in the account may be used only by the Parks and Wildlife Department to support the activities of the Texas Marine Mammal Stranding Network in the recovery, rehabilitation, and release of stranded marine mammals. The Parks and Wildlife Department shall establish reporting and other mechanisms necessary to ensure that the money is spent for purposes for which it is dedicated.

Sec. 504.645. 4-H LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "To Make the Best Better," the words "Texas 4-H," and the 4-H symbol of the four-leaf clover. The department shall design the license plates in consultation with the Texas 4-H and Youth Development Program.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the general revenue fund and shall be used only by the Texas Cooperative Extension of the Texas A&M University System for 4-H and Youth Development Programs and to support the Texas Cooperative Extension's activities related to 4-H and Youth Development Programs.

Sec. 504.646. SMILE TEXAS STYLE LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "Smile Texas Style." The department shall design the license plates in consultation with the Texas Dental Association.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the general revenue fund to be used only by the Texas Department of Health in making grants to benefit the Texas Dental Association Financial Services for the sole use of providing charitable dental care.

Sec. 504.647. FIGHT TERRORISM LICENSE PLATES. (a) The department shall issue Fight Terrorism specialty license plates. The license plates shall include a pentagon-shaped border surrounding:

(1) the date "9-11-01" with the likeness of the World Trade Center towers forming the "11";

(2) the likeness of the United States flag; and

(3) the words "Fight Terrorism."

(b) The fee shall be deposited to the credit of the state highway fund.

Sec. 504.648. GOD BLESS TEXAS AND GOD BLESS AMERICA LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "God Bless Texas" and "God Bless America."

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the state highway fund and may only be used for the Safe Routes to School Program.

(c) The fee for the license plates is \$40.

Sec. 504.649. TEXAS JUNETEENTH LICENSE PLATES. (a) The department shall issue Texas Juneteenth specialty license plates. The department shall design the license plates in consultation with the Texas Emancipation Juneteenth Cultural and Historical Commission.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Texas Emancipation Juneteenth Cultural and Historical Commission in a special account in the state treasury. Money in the account may be used only by the Texas Emancipation Juneteenth Cultural and Historical Commission for grants to Juneteenth USA to erect a Juneteenth Memorial Monument on the South grounds of the State Capitol, place Juneteenth monuments and markers in various historical parts of Texas, develop a Juneteenth Museum, Cultural, and Educational Institute, Recreation Center, and Park, and otherwise support the activities and projects of Juneteenth USA and its affiliates.

Sec. 504.650. KEEPING TEXAS STRONG LICENSE PLATES. (a) The department shall issue Keeping Texas Strong specialty license plates. The department shall design the license plates in consultation with the Texas Alliance of Energy Producers.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Texas Alliance Education Program account in the general revenue fund. Money in the account may be used only by the Texas Education Agency to finance the education programs of the Texas Alliance of Energy Producers.

Sec. 504.651. MARCH OF DIMES LICENSE PLATES. (a) The department shall issue specialty license plates that include the words "March of Dimes." The department shall design the license plates in consultation with March of Dimes Texas Chapter.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Texas Department of Health for use in the Birth Defects Registry.

Sec. 504.652. MASTER GARDENER LICENSE PLATES. (a) The department shall issue specialty license plates that include the seal of the Texas Master Gardener program of Texas Cooperative Extension.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of an account in the general revenue fund. Money in the account may be used only by Texas Cooperative Extension for graduate student assistantships within the Texas Master Gardener program and to support Texas Cooperative Extension's activities related to the Texas Master Gardener program.

Sec. 504.653. MOTHER-CHILD SURVIVORS EDUCATIONAL SCHOLARSHIP FUND LICENSE PLATES. (a) The department shall issue mother-child survivors educational scholarship fund specialty license plates. The department shall design the license plates in consultation with Texans for Equal Justice.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the general revenue fund and may only be used by the attorney general to support the Texans for Equal Justice mother-child survivors educational scholarship fund for educational scholarships to:

(1) surviving spouses of homicide victims who have one or more minor children and who need further education to adequately support the family; and

(2) surviving children of homicide victims entering an institution of higher education or vocational school for the first time.

Sec. 504.654. PRESERVE AMERICA'S BORDERLAND LICENSE PLATES. (a) The department shall issue Preserve America's Borderland specialty license plates. The department shall design the license plates in consultation with the Borderlands Heritage Tourism Council.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of an account in the state treasury. Money in the account may be used only by the Texas Department of Economic Development for projects overseen by the Borderlands Heritage Tourism Council. The Texas Department of Economic Development shall establish reporting and other mechanisms necessary to ensure that the money is spent for purposes for which it is dedicated.

Sec. 504.655. EAGLE SCOUT LICENSE PLATES. (a) The department shall issue specialty license plates that bear a depiction of the Eagle Scout medal.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Eagle Scout account in the general revenue fund. Money in the account may be used only by the Texas Higher Education Coordinating Board in making grants to support projects sponsored by Boy Scout councils in this state. The Texas Higher Education Coordinating Board shall distribute grants under this section geographically as nearly as possible in proportion to the number of license plates issued under this section in each region of the state.

Sec. 504.656. TEJANO MONUMENT LICENSE PLATES. (a) The department shall issue Tejano Monument specialty license plates. The department shall design the license plates in consultation with The Tejano Monument, Inc.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Tejano Monument account in the general revenue fund. Money in the account may be used only by the State Preservation Board to design and erect a Tejano Monument for placement on the Capitol grounds or related educational programs.

Sec. 504.657. TEXAS LIONS CAMP LICENSE PLATES. (a) The department shall issue Texas Lions Camp specialty license plates. The department shall design the license plates in consultation with the Texas Lions League for Crippled Children.

(b) After deduction of the department's administrative costs, the remainder of the fee for issuance of the license plates shall be deposited to the credit of the Texas Lions Camp account in the state treasury. Money in the account may be used only by the Parks and Wildlife Department to support the activities of a designated nonprofit organization that is accredited by the American Camping Association and is licensed by the Texas Department of Health and whose primary purpose is to provide, without charge, a camp for physically disabled, hearing or vision impaired, and diabetic children who reside in this state, regardless of race, religion, or national origin. The Parks and Wildlife Department shall establish reporting and other mechanisms necessary to ensure that the money is spent only for the purposes for which it is dedicated.

[Sections 504.658-504.700 reserved for expansion]

SUBCHAPTER H. ADMINISTRATIVE PROVISIONS RELATING TO
SPECIALTY LICENSE PLATES FOR GENERAL DISTRIBUTION

Sec. 504.701. DISCONTINUANCE OF CERTAIN SPECIALTY LICENSE PLATES. (a) This section applies only to license plates authorized by:

- (1) Section 504.602;
- (2) Section 504.603;
- (3) Section 504.604;
- (4) Section 504.605;
- (5) Section 504.606;
- (6) Section 504.607;
- (7) Section 504.608;
- (8) Section 504.609;
- (9) Section 504.610;
- (10) Section 504.611;
- (11) Section 504.612;
- (12) Section 504.613;
- (13) Section 504.614; or
- (14) Section 504.615.

(b) Except as provided by Subsections (d) and (e), on or after September 1, 2004, the department may continue to issue license plates to which this section applies only if before that date at least:

(1) 3,500 sets of the license plates authorized by the applicable section of this chapter have been issued or presold;

(2) \$15,000 has been received by the department from the issuance of license plates under that section; or

(3) \$15,000 has been deposited with the department for the continued issuance of those license plates.

(c) If before September 1, 2004, one of the conditions described by Subsection (b) is not met for the license plate, the section that authorizes the issuance of that license plate expires on that date.

(d) On or after September 1, 2004, the department may continue to issue license plates under:

(1) Section 504.615 for a particular institution of higher education or private college or university only if before that date:

(A) 1,500 sets of license plates for the particular institution, college, or university have been issued or presold;

(B) \$15,000 has been received by the department from the issuance of the license plates for that institution, college, or university; or

(C) \$15,000 has been deposited with the department for the continued issuance of the license plates for that institution, college, or university; or

(2) Section 504.614 for a particular professional sports team only if before that date:

(A) 3,500 sets of the license plates for that sports team have been issued or presold;

(B) \$15,000 has been received by the department from the issuance of license plates for that sports team; or

(C) \$15,000 has been deposited with the department for the continued issuance of license plates for that sports team.

(e) Money deposited with the department under Subsection (b)(3), (d)(1)(C), or (d)(2)(C) shall be returned by the department to the person who made the deposit only after the requisite number of license plates under those subsections are issued or presold.

Sec. 504.702. SPECIALTY LICENSE PLATES AUTHORIZED AFTER JANUARY 1, 1999. (a) This section applies only to specialty license plates that are authorized to be issued by a law that takes effect on or after January 1, 1999.

(b) The department may manufacture the specialty license plates only if a request for manufacture of the license plates is filed with the department. The request must be:

(1) made on a form adopted by the department;

(2) filed before the fifth anniversary of the effective date of the law that authorizes the issuance of the specialty license plates; and

(3) accompanied by:

(A) a deposit of \$15,000; or

(B) applications for issuance of at least 3,500 sets of the license plates plus the fees for issuance of that number of sets.

(c) Money deposited with the department under Subsection (b)(3)(A) shall be returned to the person who made the deposit only if 3,500 sets of the applicable license plates are issued or presold.

(d) If a request is not filed with the department before the date specified by Subsection (b)(2), the law that authorizes the issuance of the specialty license plates expires on that date.

[Sections 504.703-504.800 reserved for expansion]

SUBCHAPTER I. DEVELOPMENT OF NEW SPECIALTY
LICENSE PLATES

Sec. 504.801. CREATION OF NEW SPECIALTY LICENSE PLATES BY THE DEPARTMENT. (a) The department may create new specialty license plates on its own initiative or on receipt of an application from a potential sponsor. A new specialty license plate created under this section must comply with each requirement of Section 504.702 unless the license is created by the department on its own initiative. The department may permit a specialty license plate created under this section to be personalized. The redesign of an existing specialty license plate at the request of a sponsor shall be treated like the issuance of a new specialty license plate, except that the department may require a lower deposit amount to reflect the actual costs of redesigning the license plate.

(b) Any person may sponsor a new specialty license plate by submitting an application to the department. An application may nominate a state agency to receive funds derived from the issuance of the license plates. The application may also identify uses to which those funds should be appropriated.

(c) The department shall design each new specialty license plate in consultation with the sponsor, if any, that applied for creation of that specialty license plate. The department may refuse to create a new specialty license plate if the design might be offensive to any member of the public, if the nominated state agency does not consent to receipt of the funds derived from issuance of the license plate, if the uses identified for those funds might violate a statute or constitutional provision, or for any other reason established by rule. At the request of the sponsor, distribution of the license plate may be limited by the department.

(d) The fee for issuance of license plates authorized under this subchapter is \$30 unless the department sets a higher fee.

(e) For each fee collected:

(1) \$8 shall be used to reimburse the department for its administrative costs;
and

(2) the remainder shall be deposited to the credit of:

(A) the specialty license plate fund, an account in the general revenue fund, if the sponsor nominated a state agency to receive the funds; or

(B) the state highway fund if the sponsor did not nominate a state agency to receive the funds or if there is no sponsor.

(f) Subchapter D, Chapter 316, Government Code, and Section 403.095, Government Code, do not apply to fees collected under this section.

(g) The department may report to the legislature at any time concerning implementation of this section. The report may include recommendations concerning the appropriations, by amount, state agency, and uses, that are necessary to implement the requests of sponsors.

(h) The department may license a trademark for inclusion within the design of the plates and may pay a fee for the trademark license. If a fee is paid for the trademark license, the fee shall be paid from the amounts specified by Subsection (e)(2).

(i) The department may vary the design of a license plate created under this section to accommodate or reflect its use on a motor vehicle other than a passenger car or light truck.

(j) The sponsor of a new specialty plate may not be a for-profit enterprise.

[Sections 504.802-504.850 reserved for expansion]

SUBCHAPTER J. MARKETING OF SPECIALTY
PLATES THROUGH PRIVATE VENDOR

Sec. 504.851. CONTRACT WITH PRIVATE VENDOR. (a) The Texas Transportation Commission may authorize the department to enter into a contract with the private vendor whose proposal is most advantageous to the state as determined from competitive sealed proposals for the marketing and sale of:

(1) personalized prestige license plates authorized by Section 504.101; or

(2) other specialized license plates authorized by this subchapter.

(b) Instead of the fees established by Section 504.101(c), if the Texas Transportation Commission authorizes the department to contract with a private vendor under Subsection (a)(1) for the marketing and sale of personalized prestige license plates, the commission by rule shall establish fees for the issuance or renewal of personalized prestige license plates that are marketed and sold by the private vendor. Fees must be reasonable and not less than the greater of:

(1) the amounts necessary to allow the department to recover all costs to the department associated with the evaluation of the competitive sealed proposals received by the department and with the implementation and enforcement of the contract, including direct, indirect, and administrative costs; or

(2) the amount established by Section 504.101(c).

(c) If the Texas Transportation Commission authorizes the department to contract with a private vendor under Subsection (a)(2) for the marketing and sale of other specialized license plates authorized by this subchapter, including specialized license plates that may be personalized, the commission by rule shall establish the fees for the issuance or renewal of specialized license plates that are marketed and sold by the private vendor. Fees must be reasonable and not less than the amounts necessary to allow the department to recover all costs to the department associated with the evaluation of the competitive sealed proposals received by the department and with the implementation and enforcement of the contract, including direct, indirect, and administrative costs. A fee established under this subsection is in addition to:

(1) the registration fee and any optional registration fee prescribed by this chapter for the vehicle for which the specialized license plates are issued;

(2) any additional fee prescribed by this subchapter for the issuance of the specialized license plates for that vehicle; and

(3) any additional fee prescribed by this subchapter for the issuance of personalized special license plates for that vehicle.

(d) At any time, as necessary to comply with Subsection (b) or (c), the Texas Transportation Commission may increase or decrease the amount of a fee established under the applicable subsection.

(e) A contract with a private vendor under Subsection (a)(1) is payable only from amounts derived from the collection of the fee established under Subsection (b). A contract with a private vendor under Subsection (a)(2) is payable only from amounts derived from the collection of the fee established under Subsection (c).

(f) The department may create new design and color combinations for personalized prestige license plates that are marketed or sold by a private vendor under a contract entered into under Subsection (a)(1). Each approved license plate design and color combination remains the property of the department.

(g) The department may create new design and color combinations for specialized license plates, including specialized license plates that may be personalized, that are marketed or sold by a private vendor under a contract entered into under Subsection (a)(2). Each approved license plate design and color combination remains the property of the department. This subsection does not authorize:

(1) the department to approve a design or color combination for a specialized license plate that is inconsistent with the design or color combination specified for the license plate by the section of this subchapter that authorizes the issuance of the specialized license plate; or

(2) the private vendor to market or sell a specialized license plate with a design or color combination that is inconsistent with the design or color combination specified by that section.

(h) In connection with a license plate that is marketed or sold by a private vendor under contract, the department may cancel a license plate or require the discontinuation of a license plate design or color combination at any time if the department determines that the cancellation or discontinuation is in the best interest of this state or the motoring public.

(i) A contract entered into by the department with a private vendor under this section:

(1) must comply with any law generally applicable to a contract for services entered into by the department;

(2) must require the private vendor to render at least quarterly to the department periodic accounts that accurately detail all material transactions, including information reasonably required by the department to support fees that are collected by the vendor, and to regularly remit all money payable to the department under the contract; and

(3) may allow or require the private vendor to establish an electronic infrastructure coordinated and compatible with the department's registration system, by which motor vehicle owners may electronically send and receive applications, other documents, or required payments, and that, when secure access is necessary, can be electronically validated by the department.

(j) From amounts received by the department, the department shall deposit to the credit of the state highway fund an amount sufficient to enable the department to recover its administrative costs for all license plates issued under this section,

including any payments to the vendor under Subsection (a), and any other amounts allocated to the state highway fund by another law. To the extent that disposition of other amounts received from the vendor are governed by another law, those amounts shall be deposited in accordance with the other law, and for each type of license plate, the amount charged for the license plate may not be less than the amount in effect on January 1, 2003. Any additional amount received from the vendor shall be deposited to the credit of the general revenue fund.

(k) The Texas Transportation Commission may authorize the department to pay a licensing fee for the use of a trademark in connection with the marketing and sale of a license plate under this section.

SECTION ____ . Subchapter A, Chapter 502, Transportation Code, is amended by adding Sections 502.0071, 502.0072, 502.0073, 502.0074, 502.0078, and 502.0079 to read as follows:

Sec. 502.0071. GOLF CARTS. An owner of a golf cart is not required to register the golf cart if:

(1) the operation of the golf cart occurs in the daytime, as defined by Section 541.401; and

(2) the operation:

(A) does not exceed a distance of two miles from the point of origin to the destination if driven to and from a golf course;

(B) occurs entirely within a master planned community with a uniform set of restrictive covenants that has had a plat approved by a county or a municipality;
or

(C) occurs on a public or private beach.

Sec. 502.0072. MANUFACTURED HOUSING. Manufactured housing, as defined by Section 1201.003, Occupations Code, is not a vehicle subject to this chapter.

Sec. 502.0073. POWER SWEEPERS. (a) An owner of a power sweeper is not required to register the power sweeper.

(b) In this section, "power sweeper" means an implement, with or without motive power, designed for the removal by broom, vacuum, or regenerative air system of debris, dirt, gravel, litter, or sand from asphaltic concrete or cement concrete surfaces, including surfaces of parking lots, roads, streets, highways, and warehouse floors. The term includes a vehicle on which the implement is permanently mounted if the vehicle is used only as a power sweeper.

Sec. 502.0074. MOTORIZED MOBILITY DEVICE. The owner of a motorized mobility device, as defined by Section 542.008, as amended by Chapter 497, Acts of the 77th Legislature, Regular Session, 2001, is not required to register the motorized mobility device.

Sec. 502.0078. VEHICLES OPERATED ON PUBLIC HIGHWAY SEPARATING REAL PROPERTY UNDER VEHICLE OWNER'S CONTROL. Where a public highway separates real property under the control of the owner of a motor vehicle, the operation of the motor vehicle by the owner or the owner's agent or employee across the highway is not a use of the motor vehicle on the public highway.

Sec. 502.0079. VEHICLES OPERATED BY CERTAIN NONRESIDENTS. (a) A nonresident owner of a motor vehicle, trailer, or semitrailer that is registered in the state or country in which the person resides may operate the vehicle to transport persons or property for compensation without being registered in this state, if the person does not exceed two trips in a calendar month and each trip does not exceed four days.

(b) A nonresident owner of a privately owned vehicle that is not registered in this state may not make more than five occasional trips in any calendar month into this state using the vehicle. Each occasional trip into this state may not exceed five days.

(c) A nonresident owner of a privately owned passenger car that is registered in the state or country in which the person resides and that is not operated for compensation may operate the car in this state for the period in which the car's license plates are valid. In this subsection, "nonresident" means a resident of a state or country other than this state whose presence in this state is as a visitor and who does not engage in gainful employment or enter into business or an occupation, except as may otherwise be provided by any reciprocal agreement with another state or country.

(d) This section does not prevent:

(1) a nonresident owner of a motor vehicle from operating the vehicle in this state for the sole purpose of marketing farm products raised exclusively by the person;
or

(2) a resident of an adjoining state or country from operating in this state a privately owned and registered vehicle to go to and from the person's place of regular employment and to make trips to purchase merchandise, if the vehicle is not operated for compensation.

(e) The privileges provided by this section may be allowed only if, under the laws of the appropriate state or country, similar privileges are granted to vehicles registered under the laws of this state and owned by residents of this state.

(f) This section does not affect the right or status of a vehicle owner under any reciprocal agreement between this state and another state or country.

SECTION ____ . Subchapter D, Chapter 502, Transportation Code, is amended by adding Sections 502.187 and 502.188 to read as follows:

Sec. 502.187. PARADE VEHICLES OWNED BY NONPROFIT SERVICE ORGANIZATIONS. (a) A motor vehicle owned and operated by a nonprofit service organization and designed, constructed, and used primarily for parade purposes is subject to registration as provided by this chapter but is exempt from the fee otherwise prescribed by this chapter.

(b) Subsection (a) does not apply to a vehicle for which a registration fee has been paid under other law.

Sec. 502.188. CERTAIN SOIL CONSERVATION EQUIPMENT. (a) The owner of a truck-tractor, semitrailer, or low-boy trailer used on a highway exclusively to transport the owner's soil conservation machinery or equipment used in clearing real property, terracing, or building farm ponds, levees, or ditches may register the vehicle for a fee equal to 50 percent of the fee otherwise prescribed by this chapter for the vehicle.

(b) An owner may register only one truck-tractor and only one semitrailer or low-boy trailer under this section.

(c) An owner applying for registration under this section must submit a statement that the vehicle is to be used only as provided by Subsection (a).

(d) The registration receipt issued for a vehicle registered under this section shall state the nature of the operation for which the vehicle may be used. The receipt must be carried at all times in or on the vehicle to permit ready inspection.

(e) A vehicle to which this section applies that is operated on a public highway in violation of this section is considered to be operated while unregistered and is immediately subject to the applicable registration fees and penalties prescribed by this chapter.

SECTION _____. Subchapter B, Chapter 7, Education Code, is amended by adding Section 7.026 to read as follows:

Sec. 7.026. TEXAS MUSIC FOUNDATION ACCOUNT. (a) The Texas Music Foundation account is established as a separate account in the general revenue fund. The account is composed of money deposited to the credit of the account under Section 504.639, Transportation Code. Money in the account may be used only for the purposes of this section.

(b) The Music, Film, Television, and Multimedia Office in the governor's office shall administer the account. The agency may spend money credited to the account only to make grants to benefit music-related educational and community programs sponsored by nonprofit organizations based in this state. An administration fee of \$5 per license plate shall be retained by the Music, Film, Television, and Multimedia Office for performance of administrative duties.

SECTION 5. Chapter 162, Health and Safety Code, is amended by adding Sections 162.016 and 162.017 to read as follows:

Sec. 162.016. BE A BLOOD DONOR ACCOUNT. (a) The Be a Blood Donor account is a separate account in the general revenue fund. The account is composed of:

(1) money deposited to the credit of the account under Section 504.641, Transportation Code; and

(2) gifts, grants, donations, and legislative appropriations.

(b) The department administers the account and may spend money credited to the account only to:

(1) make grants to nonprofit blood centers in this state for programs to recruit and retain volunteer blood donors; and

(2) defray the cost of administering the account.

(c) The board:

(1) may accept gifts, grants, and donations from any source for the benefit of the account; and

(2) by rule shall establish guidelines for spending money credited to the account.

Sec. 162.017. BE A BLOOD DONOR ADVISORY COMMITTEE. (a) The commissioner shall appoint a five-member Be a Blood Donor Advisory Committee composed of:

(1) one volunteer blood donor who has given at least one gallon of blood in the two years preceding the appointment;

(2) two representatives from nonprofit blood centers;

(3) one person who has received a blood transfusion in the five years preceding the appointment; and

(4) one representative from the department.

(b) The commissioner shall designate one member as presiding officer of the committee.

(c) The committee shall:

(1) meet at least annually or as called by the commissioner;

(2) assist the board in establishing guidelines for the expenditure of money credited to the Be a Blood Donor account; and

(3) review and make recommendations to the department on applications submitted to the department for grants funded with money credited to the Be a Blood Donor account.

(d) Members of the committee serve without compensation and are not entitled to reimbursement for expenses. Members of the committee serve staggered four-year terms, with the terms of as near one-half as possible of the members expiring on January 31 of each even-numbered year.

SECTION _____. (a) Subchapter F, Chapter 502, Transportation Code, is repealed.

(b) The repeal of Section 502.273, Transportation Code, by this Act does not affect the validity of license plates already issued under that section, which shall be governed under Section 504.801, Transportation Code, as added by this Act.

SECTION _____. Notwithstanding Subsection (a), Section 504.403, Transportation Code, as added by this Act, a retired state or federal judge who applied for or was issued state judge or federal judge license plates under Section 502.297, Transportation Code, as that law existed before the effective date of this Act, is entitled to apply for and to be issued state judge license plates or federal judge license plates, as applicable, under Section 504.403, Transportation Code, as added by this Act.

SECTION _____. (a) This section shall be implemented only if the Legislative Budget Board determines that this Act would otherwise reduce the amount of money allocated to the general revenue fund from the issuance by the Texas Department of Transportation of specialty license plates during fiscal years 2004 and 2005 relative to the amount of money allocated to the general revenue fund from the issuance by that department of specialized license plates during fiscal years 2002 and 2003.

(b) The Texas Department of Transportation shall reduce the amount of fees allocated to the department's administrative costs and allocate that amount to general revenue for deposit to the credit of the accounts specified in each section of Chapter 504, Transportation Code, as added by this Act. The amount of the reduction and reallocation shall be the amount necessary to ensure that sums allocated to the general revenue fund are not reduced as specified in Subsection (a) of this section. The reduction in administrative costs shall be taken proportionately from each specialty plate so that each will be reduced by the same percentage amount.

(c) This section expires September 1, 2005.

The floor amendment was read.

Senator Shapleigh offered the following amendment to the amendment:

Floor Amendment No. 4

Amend Floor Amendment No. 3 to **HB 2971** by adding the following appropriately numbered SECTIONS to the amendment and renumbering subsequent SECTIONS added by the amendment appropriately:

SECTION ____ Chapter 481, Government Code, is amended by adding Subchapter M to read as follows:

SUBCHAPTER M. BORDERLANDS HERITAGE TOURISM COUNCIL

Sec. 481.181. DEFINITIONS. In this subchapter:

(1) "Council" means the Borderlands Heritage Tourism Council.

(2) "Heritage tourism" means tourism primarily based on a destination's history, landscape, trail systems, culture, parks, or natural preserves.

(3) "Historic property" means a district, site, building, structure, or object that is included on or meets the criteria for inclusion on the National Register of Historic Places or that is otherwise recognized by this state or a political subdivision of this state as having historical, prehistorical, or archaeological significance to the heritage of this state.

(4) "Natural or historical asset" means a locale, collection, itinerary, vista, landscape, cultural phenomenon, geological formation, byway, trail, waterway, or other property that is or that might become of unique, unusual, or pronounced interest to a resident or tourist of the area near the asset.

Sec. 481.182. ESTABLISHMENT. The department shall establish and administer the Borderlands Heritage Tourism Council.

Sec. 481.183. COUNCIL MEMBERS. The council consists of:

(1) one representative of the governor, appointed by the governor;

(2) one representative of the lieutenant governor, appointed by the lieutenant governor;

(3) one representative of the secretary of state, appointed by the secretary of state;

(4) one representative of the tourism division of the department, appointed by the governing board of the department;

(5) one member of the public, appointed by the governor after consultation with the speaker of the house of representatives;

(6) one representative of the Texas Historical Commission, appointed by the Texas Historical Commission;

(7) one representative of the Parks and Wildlife Department, appointed by the Parks and Wildlife Commission;

(8) one representative of the Texas Department of Transportation, appointed by the Texas Transportation Commission; and

(9) one representative from each regional planning commission established under Chapter 391, Local Government Code, by a municipality with a population of 105,000 or more that is located in the border region or a county located in the border

region in which the majority of territory of a municipality with a population of 105,000 or more is located, appointed by the governor after consultation with each regional planning commission.

Sec. 481.184. COUNCIL DUTIES. The council shall:

(1) provide leadership in preserving historic property and developing the potential for heritage tourism of the border region through cooperative agreements with local governments, Native American governments, and federal agencies consistent with Executive Order 13287, as published in the March 5, 2003, Federal Register;

(2) develop cooperative agreements with agencies of the United Mexican States, or agencies of states of the United Mexican States that border Texas, to:

(A) advance the protection, enhancement, and contemporary use of historic property and natural or historical assets pertaining to the common heritage of the border region; and

(B) develop mutually beneficial tourism development strategies;

(3) develop strategies to encourage the use of the Internet to promote tourism in this state;

(4) designate as a borderlands heritage corridor the counties of the Texas-Mexico border region, as that term is defined by Section 2056.002(e), in which the majority of territory of a municipality with a population of 105,000 or more is located, and develop itineraries and maps to guide tourists to the Texas-Mexico border region's historic property and natural or historical assets;

(5) assist locally based border heritage guides and artisans cooperatives in establishing training and certification programs for Borderlands Heritage Tourism guides and artisans;

(6) facilitate public-private partnerships to invest in the use, reuse, and rehabilitation of historic properties or natural or historical assets;

(7) on the recommendation of a local government, identify specific opportunities for the preservation of natural or historical assets and for the development of heritage tourism, in conjunction with a state-sponsored trails system and the heritage sites and itineraries identified by the council;

(8) develop and coordinate local public-private partnerships to facilitate heritage tourism in the borderlands heritage corridor identified under Subdivision (4);

(9) develop and publish a working list of existing public and private funds available for historic property and natural or historical asset preservation projects;

(10) consider the feasibility of working with state agencies, universities, and colleges and with private corporations to identify cash and in-kind resources that can be offered as matching contributions for projects overseen by the council; and

(11) provide technical assistance to local governments in rural areas of the border region in:

(A) information technology training;

(B) Internet website construction and management; and

(C) public relations consistent with available funds.

Sec. 481.185. INTERFERENCE WITH PROPERTY RIGHTS PROHIBITED. The council may not interfere with rights of owners of private property.

Sec. 481.186. CERTAIN ACTION OR DISCLOSURE NOT REQUIRED. This subchapter does not require or encourage a person to take any action or disclose any information that would conflict with or compromise national or state homeland security goals, policies, programs, or legally sanctioned activities.

Sec. 481.187. REVENUE RESTRICTIONS. This subchapter does not authorize the encumbrance of revenue generated by a municipal or county hotel occupancy tax.

Sec. 481.188. MEETINGS WITH LOCAL GOVERNMENTS. Each year, the council shall hold at least five public meetings in the border region for local governments and local stakeholders in heritage tourism of the border region to hear reports from the state officers and agencies with representatives serving on the council. At each meeting, the state officers and agencies shall reveal specific plans and projects to be undertaken within the local governments and receive specific recommendations from the local governments and tourism industry representatives.

SECTION ____ . The Texas Department of Economic Development shall establish the Borderlands Heritage Tourism Council under Subchapter M, Chapter 481, Government Code, as added by this article, on or before September 1, 2003.

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

Question recurring on the adoption of Floor Amendment No. 3 as amended, the amendment as amended was adopted by a viva voce vote.

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

HB 2971 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 2971 ON THIRD READING

Senator Deuell moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2971** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

COMMITTEE SUBSTITUTE HOUSE BILL 1005 ON SECOND READING

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration **CSHB 1005** at this time on its second reading:

CSHB 1005, Relating to emergency orders and penalties for rock crushers and concrete plants.

The bill was read second time.

Senator Fraser offered the following amendment to the bill:

Floor Amendment No. 1

(1) Amend **CSHB 1005** in SECTION 1 of the bill, by striking subsections (b) and (c) in their entirety, and strike "(a)" on page one line 16.

(2) Amend **CSHB 1005** in SECTION 3 of the bill, by striking subsection (c) in its entirety.

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

On motion of Senator Fraser, further consideration of **CSHB 1005** was postponed.

Question — Shall **CSHB 1005** be passed to third reading?

HOUSE BILL 532 ON SECOND READING

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 532** at this time on its second reading:

HB 532, Relating to creating the offense of improper sexual relations between employees of a public or private primary or secondary school and certain students.

The bill was read second time.

Senator Nelson offered the following committee amendment to the bill:

Committee Amendment No. 1

Amend **HB 532** as follows:

On page 1, line 13, between "school" and "and", insert "at which the employee works".

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

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

HB 532 as amended was passed to third reading without objection.

HOUSE BILL 532 ON THIRD READING

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 532** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

HOUSE BILL 3030 ON SECOND READING

On motion of Senator Lindsay and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 3030** at this time on its second reading:

HB 3030, Relating to notice of groundwater contamination that may affect a drinking water well.

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

HOUSE BILL 3030 ON THIRD READING

Senator Lindsay moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3030** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

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

HOUSE BILL 1314 ON SECOND READING

On motion of Senator Averitt and by unanimous consent, the regular order of business was suspended to take up for consideration **HB 1314** at this time on its second reading:

HB 1314, Relating to placement of certain students in alternative education programs.

The bill was read second time.

Senator Janek offered the following amendment to the bill:

Floor Amendment No. 1

Amend **HB 1314** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subsection (a), Section 37.001, Education Code, is amended to read as follows:

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Section 11.251, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal. In addition to establishing standards for student conduct, the student code of conduct must:

(1) specify the circumstances, in accordance with this subchapter, under which a student may be removed from a classroom, campus, or alternative education program;

(2) specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to an alternative education program; and

(3) outline conditions under which a student may be suspended as provided by Section 37.005 or expelled as provided by Section 37.007.

SECTION _____. Section 37.0021, Education Code, is amended by amending Subsections (a) through (d) and adding Subsection (g) to read as follows:

(a) It is the policy of this state to treat with dignity and respect all students, including students with disabilities who receive special education services under Subchapter A, Chapter 29 [~~with dignity and respect~~]. A student with a disability who receives special education services under Subchapter A, Chapter 29, may not be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique.

(b) In this section:

(1) "Restraint" means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student's body.

(2) "Seclusion" means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:

(A) is designed solely to seclude a person; and

(B) contains less than 50 square feet of space.

(3) "Time-out" means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:

(A) that is not locked; and

(B) from which the exit [student] is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object ~~[prevented from leaving].~~

(c) A school district employee or volunteer or an independent contractor of a district may not place a student in seclusion. This subsection does not apply to the use of seclusion in a court-ordered placement, other than a placement in an educational program of a school district, or in a placement or facility to which the following law, rules, or regulations apply:

(1) the Children's Health Act of 2000, Pub. L. No. 106-310, any subsequent amendments to that Act, any regulations adopted under that Act, or any subsequent amendments to those regulations;

(2) 40 T.A.C. Sections 720.1001-720.1013; or

(3) 25 T.A.C. Section 412.308(e).

(d) The commissioner by rule shall adopt procedures for the use of restraint and time-out by a school district employee or volunteer or an independent contractor of a district in the case of a student with a disability receiving special education services under Subchapter A, Chapter 29. A procedure adopted under this subsection must:

(1) be consistent with:

(A) professionally accepted practices and standards of student discipline and techniques for behavior management; and

(B) relevant health and safety standards; and

(2) identify any discipline management practice or behavior management technique that requires a district employee or volunteer or an independent contractor of a district to be trained before using that practice or technique.

(g) This section and any rules or procedures adopted under this section do not apply to:

(1) a peace officer while performing law enforcement duties;

(2) juvenile probation, detention, or corrections personnel; or

(3) an educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.

SECTION ____ . Section 37.003, Education Code, is amended by adding Subsection (c) to read as follows:

(c) The committee's placement determination regarding a student with a disability who receives special education services under Subchapter A, Chapter 29, is subject to the requirements of the Individuals with Disabilities Education Act (20

U.S.C. Section 1400 et seq.) and federal regulations, state statutes, and agency requirements necessary to carry out federal law or regulations or state law relating to special education.

SECTION _____. Subsection (a), Section 37.005, Education Code, is amended to read as follows:

(a) The principal or other appropriate administrator may suspend a student who engages in conduct identified in the student code of conduct adopted under Section 37.001 as conduct for which a student may be suspended ~~[for which the student may be placed in an alternative education program under this subchapter].~~

SECTION _____. Subsections (b), (c), (d), and (1), Section 37.006, Education Code, are amended to read as follows:

(b) Except as provided by Section 37.007(d), a student shall be removed from class and placed in an alternative education program under Section 37.008 if the student engages in conduct on or off of school property that contains the elements of the offense of retaliation under Section 36.06, Penal Code, against any school employee.

(c) In addition to Subsections ~~[Subsection]~~ (a) and (b), a student shall be removed from class and placed in an alternative education program under Section 37.008 based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

(1) the student receives deferred prosecution under Section 53.03, Family Code, for conduct defined as a felony offense in Title 5, Penal Code;

(2) a court or jury finds that the student has engaged in delinquent conduct under Section 54.03, Family Code, for conduct defined as a felony offense in Title 5, Penal Code; or

(3) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in a conduct defined as a felony offense in Title 5, Penal Code.

(d) In addition to Subsections ~~[Subsection]~~ (a), (b), and (c), a student may be removed from class and placed in an alternative education program under Section 37.008 based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

(1) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in conduct defined as a felony offense other than those defined in Title 5, Penal Code; and

(2) the continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

(l) Notwithstanding any other provision of this code, other than Section 37.007(e)(2), a student who is younger than six years of age may not be removed from class and placed in an alternative education program.

SECTION _____. Subsections (a), (b), and (g), Section 37.007, Education Code, are amended to read as follows:

(a) A student shall be expelled from a school if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

- (1) uses, exhibits, or possesses:
- (A) a firearm as defined by Section 46.01(3), Penal Code;
 - (B) an illegal knife as defined by Section 46.01(6), Penal Code, or by local policy;
 - (C) a club as defined by Section 46.01(1), Penal Code; or
 - (D) a weapon listed as a prohibited weapon under Section 46.05, Penal Code;
- (2) engages in conduct that contains the elements of the offense of:
- (A) aggravated assault under Section 22.02, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;
 - (B) arson under Section 28.02, Penal Code;
 - (C) murder under Section 19.02, Penal Code, capital murder under Section 19.03, Penal Code, or criminal attempt, under Section 15.01, Penal Code, to commit murder or capital murder;
 - (D) indecency with a child under Section 21.11, Penal Code; ~~[or]~~
 - (E) aggravated kidnapping under Section 20.04, Penal Code;
 - (F) aggravated robbery under Section 29.03, Penal Code;
 - (G) manslaughter under Section 19.04, Penal Code; or
 - (H) criminally negligent homicide under Section 19.05, Penal Code; or
- (3) engages in conduct specified by Section 37.006(a)(2)(C) or (D), if the conduct is punishable as a felony.
- (b) A student may be expelled if the student:
- (1) engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Section 42.06, Penal Code, or terroristic threat under Section 22.07, Penal Code; ~~[or]~~
 - (2) while on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:
 - (A) sells, gives, or delivers to another person or possesses, uses, or is under the influence of any amount of:
 - (i) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;
 - (ii) a dangerous drug, as defined by Chapter 483, Health and Safety Code; or
 - (iii) an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code;
 - (B) engages in conduct that contains the elements of an offense relating to an abusable volatile chemical ~~[glue or aerosol paint]~~ under Sections 485.031 through 485.034 ~~[485.035], Health and Safety Code[-, or relating to volatile chemicals under Chapter 484, Health and Safety Code];~~ ~~[or]~~
 - (C) engages in conduct that contains the elements of an offense under Section 22.01(a)(1), Penal Code, against a school district employee or a volunteer as defined by Section 22.053; or
 - (D) engages in conduct that contains the elements of the offense of deadly conduct under Section 22.05, Penal Code; or

(3) subject to Subsection (d), while within 300 feet of school property, as measured from any point on the school's real property boundary line:

(A) engages in conduct specified by Subsection (a); or

(B) possesses a firearm, as defined by 18 U.S.C. Section 921.

(g) A school district shall inform each teacher who has regular contact with a student through a classroom assignment of the conduct of a student who has engaged in any violation listed in this section. A teacher shall keep the information received in this subsection confidential. The State Board for Educator Certification may revoke or suspend the certification of a teacher who intentionally violates this subsection.

SECTION _____. Subsection (a), Section 37.009, Education Code, is amended to read as follows:

(a) Not later than the third class day after the day on which a student is removed from class by the teacher under Section 37.002(b) or (d) or by the school principal or other appropriate administrator under Section 37.006, the principal or other appropriate administrator shall schedule a conference among the principal or other appropriate administrator, a parent or guardian of the student, the teacher removing the student from class, if any, and the student. At the conference, the student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal. The student may not be returned to the regular classroom pending the conference. Following the conference, and whether or not each requested person is in attendance after valid attempts to require the person's attendance, the principal shall order the placement of the student as provided by Section 37.002 or 37.006, as applicable, for a period consistent with the student code of conduct. If school district policy allows a student to appeal to the board of trustees or the board's designee a decision of the principal or other appropriate administrator, other than an expulsion under Section 37.007, the decision of the board or the board's designee is final and may not be appealed.

SECTION _____. Subchapter A, Chapter 37, Education Code, is amended by adding Section 37.0091 to read as follows:

Sec. 37.0091. NOTICE TO NONCUSTODIAL PARENT. (a) A noncustodial parent may request in writing that a school district or school, for the remainder of the school year in which the request is received, provide that parent with a copy of any written notification relating to student misconduct under Section 37.006 or 37.007 that is generally provided by the district or school to a student's parent or guardian.

(b) A school district or school may not unreasonably deny a request authorized by Subsection (a).

(c) Notwithstanding any other provision of this section, a school district or school shall comply with any applicable court order of which the district or school has knowledge.

SECTION _____. Section 37.011, Education Code, is amended by amending Subsection (b) and adding Subsection (b-1) to read as follows:

(b) If a student admitted into the public schools of a school district under Section 25.001(b) is expelled from school under Section 37.007(a), (d), or (e), the juvenile court, the juvenile board, or the juvenile board's designee, as appropriate, shall:

(1) if the student is placed on probation under Section 54.04, Family Code, order the student to attend the juvenile justice alternative education program in the county in which the student resides from the date of disposition as a condition of probation, unless the child is placed in a post-adjudication treatment facility;

(2) if the student is placed on deferred prosecution under Section 53.03, Family Code, by the court, prosecutor, or probation department, require the student to immediately attend the juvenile justice alternative education program in the county in which the student resides for a period not to exceed six months as a condition of the deferred prosecution; ~~and~~

(3) in determining the conditions of the deferred prosecution or court-ordered probation, consider the length of the school district's expulsion order for the student; and

(4) provide timely educational services to the student in the juvenile justice alternative education program in the county in which the student resides, regardless of the student's age or whether the juvenile court has jurisdiction over the student.

(b-1) Subsection (b)(4) does not require that educational services be provided to a student who is not entitled to admission into the public schools of a school district under Section 25.001(b).

SECTION _____. Subsection (a), Section 37.015, Education Code, is amended to read as follows:

(a) The principal of a public or private primary or secondary school, or a person designated by the principal under Subsection (d), shall notify any school district police department and the police department of the municipality in which the school is located or, if the school is not in a municipality, the sheriff of the county in which the school is located if the principal has reasonable grounds to believe that any of the following activities occur in school, on school property, or at a school-sponsored or school-related activity on or off school property, whether or not the activity is investigated by school security officers:

(1) conduct that may constitute an offense listed under Section 508.149, Government Code;

(2) deadly conduct under Section 22.05, Penal Code;

(3) a terroristic threat under Section 22.07, Penal Code;

(4) the use, sale, or possession of a controlled substance, drug paraphernalia, or marihuana under Chapter 481, Health and Safety Code;

(5) the possession of any of the weapons or devices listed under Sections 46.01(1)-(14) or Section 46.01(16), Penal Code; ~~or~~

(6) conduct that may constitute a criminal offense under Section 71.02, Penal Code; or

(7) conduct that may constitute a criminal offense for which a student may be expelled under Section 37.007(a), (d), or (e).

SECTION _____. Subsection (b), Section 37.001, Education Code, is repealed.

SECTION _____. This Act applies beginning with the 2003-2004 school year.

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

Senator West offered the following amendment to the bill:

Floor Amendment No. 2

Amend **HB 1314** by adding as follows:

Sec. 12.131. REMOVAL OF STUDENTS TO DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM; EXPULSION OF STUDENTS. (a) The governing body of an open enrollment charter school shall adopt a code of conduct for its district or for each campus. In addition to establishing standards for behavior, the code of conduct shall outline generally the types of prohibited behaviors and their possible consequences, including forced withdrawal and or expulsion. The code of conduct shall also outline the school's due process procedures with respect to forced withdrawal and or expulsion. Notwithstanding any other provision of law, a final decision of the governing body of a charter school with respect to actions taken under the code of conduct cannot be appealed.

(b) An open-enrollment charter school may not elect to expel a student for a reason that is not authorization by Chapter 37.007.

(c) Notwithstanding any other provision, Section 37.002 and its provisions, wherever referenced, shall not be applicable to a charter school unless the governing body of the charter school so determines.

SECTION 2. Subsection (d), Section 25.001, Education Code, is amended to read as follows:

(d) For a person under the age of 18 years to establish a residence for the purpose of attending the public schools separate and apart from the person's parent, guardian, or other person having lawful control of the person under a court order, it must be established that the person's presence in the school district is not for the primary purpose of participation in extracurricular activities. The board of trustees shall determine whether an applicant for admission is a resident of the school district for purposes of attending the public schools and may adopt reasonable guidelines for making a determination as necessary to protect the best interests of students. The board of trustees is not required to admit a person under this subsection if the person:

(1) has engaged in conduct or misbehavior within the preceding year that has resulted in:

- (A) removal to a disciplinary ~~[an]~~ alternative education program; or
- (B) expulsion;

(2) has engaged in delinquent conduct or conduct in need of supervision and is on probation or other conditional release for that conduct; or

(3) has been convicted of a criminal offense and is on probation or other conditional release.

SECTION 3. Subsection (d), Section 25.085, Education Code, is amended to read as follows:

(d) Unless specifically exempted by Section 25.086, a student enrolled in a school district must attend:

(1) an extended-year program for which the student is eligible that is provided by the district for students identified as likely not to be promoted to the next grade level or tutorial classes required by the district under Section 29.084;

(2) an accelerated reading instruction program to which the student is assigned under Section 28.006(g);

(3) an accelerated instruction program to which the student is assigned under Section 28.0211; ~~[or]~~

(4) a basic skills program to which the student is assigned under Section 29.086; or

(5) a summer program provided under Section 37.008(l) or Section 37.021.

SECTION 4. Section 37.001, Education Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11 ~~[Section 11.251]~~, adopt a student code of conduct for the district. The student code of conduct must be posted and prominently displayed at each school campus. In addition to establishing standards for student conduct, the student code of conduct must:

(1) specify the circumstances, in accordance with this subchapter, under which a student may be removed from a classroom, campus, or disciplinary alternative education program;

(2) specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary ~~[an]~~ alternative education program; ~~[and]~~

(3) outline conditions under which a student may be suspended as provided by Section 37.005 or expelled as provided by Section 37.007;

(4) specify whether consideration is given to self-defense as a factor in a decision to order suspension, removal to a disciplinary alternative education program, or expulsion;

(5) provide guidelines for setting the length of a term of:

(A) a removal under Section 37.006; and

(B) an expulsion under Section 37.007; and

(6) address the notification of a student's parent or guardian of a violation of the student code of conduct committed by the student that results in suspension, removal to a disciplinary alternative education program, or expulsion.

(d) Each school year, a school district shall provide parents notice of and information regarding the student code of conduct.

SECTION 5. Subsections (c) and (d), Section 37.002, Education Code, are amended to read as follows:

(c) If a teacher removes a student from class under Subsection (b), the principal may place the student into another appropriate classroom, into in-school suspension, or into a disciplinary ~~[an]~~ alternative education program as provided by Section 37.008. The principal may not return the student to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only alternative available. The terms of the removal may prohibit the student from attending or participating in school-sponsored or school-related activity.

(d) A teacher shall remove from class and send to the principal for placement in a disciplinary ~~[an]~~ alternative education program or for expulsion, as appropriate, a student who engages in conduct described under Section 37.006 or 37.007. The

student may not be returned to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only alternative available.

SECTION 6. Section 37.006, Education Code, is amended by amending Subsections (a) through (d), (f), (h), and (l) and adding Subsections (m) and (n) to read as follows:

(a) ~~A [Except as provided by Section 37.007(a)(3) or (b), a]~~ student shall be removed from class and placed in a disciplinary ~~[an]~~ alternative education program as provided by Section 37.008 if the student:

(1) engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Section 42.06, Penal Code, or terroristic threat under Section 22.07, Penal Code; or

(2) commits the following on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:

(A) engages in conduct punishable as a felony;

(B) engages in conduct that contains the elements of the offense of assault under Section 22.01(a)(1), Penal Code;

(C) sells, gives, or delivers to another person or possesses or uses or is under the influence of:

(i) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.; or

(ii) a dangerous drug, as defined by Chapter 483, Health and Safety Code;

(D) sells, gives, or delivers to another person an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code, commits a serious act or offense while under the influence of alcohol, or possesses, uses, or is under the influence of an alcoholic beverage;

(E) engages in conduct that contains the elements of an offense relating to an ~~an~~ abusable volatile chemical ~~[glue or aerosol paint]~~ under Sections 485.031 through 485.034 ~~[485.035]~~, Health and Safety Code ~~[-, or relating to volatile chemicals under Chapter 484, Health and Safety Code]~~; or

(F) engages in conduct that contains the elements of the offense of public lewdness under Section 21.07, Penal Code, or indecent exposure under Section 21.08, Penal Code.

(b) Except as provided by Section 37.007(d), a student shall be removed from class and placed in a disciplinary ~~[an]~~ alternative education program under Section 37.008 if the student engages in conduct that contains the elements of the offense of retaliation under Section 36.06, Penal Code, against any school employee.

(c) In addition to Subsection (a), a student shall be removed from class and placed in a disciplinary ~~[an]~~ alternative education program under Section 37.008 based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

(1) the student receives deferred prosecution under Section 53.03, Family Code, for conduct defined as a felony offense in Title 5, Penal Code;

(2) a court or jury finds that the student has engaged in delinquent conduct under Section 54.03, Family Code, for conduct defined as a felony offense in Title 5, Penal Code; or

(3) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in a conduct defined as a felony offense in Title 5, Penal Code.

(d) In addition to Subsection (a), a student may be removed from class and placed in a disciplinary [am] alternative education program under Section 37.008 based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

(1) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in conduct defined as a felony offense other than those defined in Title 5, Penal Code; and

(2) the continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

(f) Subject to Section 37.007(e), a student who is younger than 10 years of age shall be removed from class and placed in a disciplinary [am] alternative education program under Section 37.008 if the student engages in conduct described by Section 37.007. An elementary school student may not be placed in a disciplinary [am] alternative education program with any other student who is not an elementary school student.

(h) On receipt of notice under Article 15.27(g), Code of Criminal Procedure, the superintendent or the superintendent's designee shall review the student's placement in the disciplinary alternative education program. The student may not be returned to the regular classroom pending the review. The superintendent or the superintendent's designee shall schedule a review of the student's placement with the student's parent or guardian not later than the third class day after the superintendent or superintendent's designee receives notice from the office or official designated by the court. After reviewing the notice and receiving information from the student's parent or guardian, the superintendent or the superintendent's designee may continue the student's placement in the disciplinary alternative education program if there is reason to believe that the presence of the student in the regular classroom threatens the safety of other students or teachers.

(l) Notwithstanding any other provision of this code, a student who is younger than six years of age may not be removed from class and placed in a disciplinary [am] alternative education program.

(m) Removal to a disciplinary alternative education program under Subsection (a) is not required if the student is expelled under Section 37.007 for the same conduct for which removal would be required.

(n) A principal or other appropriate administrator may but is not required to remove a student to a disciplinary alternative education program for off-campus conduct for which removal is required under this section if the principal or other appropriate administrator does not have knowledge of the conduct before the first anniversary of the date the conduct occurred.

SECTION 7. Subsection (e), Section 37.007, Education Code, is amended to read as follows:

(e) In accordance with 20 U.S.C. Section 7151 [~~federal law~~], a local educational agency, including a school district, home-rule school district, or open-enrollment charter school, shall expel a student who brings a firearm, as defined by 18 U.S.C. Section 921, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that:

(1) the superintendent or other chief administrative officer of the school district or of the other local educational agency, as defined by 20 U.S.C. Section 7801 [~~2891~~], may modify the length of the expulsion in the case of an individual student;

(2) the district or other local educational agency shall provide educational services to an expelled student in a disciplinary [~~an~~] alternative education program as provided by Section 37.008 if the student is younger than 10 years of age on the date of expulsion; and

(3) the district or other local educational agency may provide educational services to an expelled student who is [~~older than~~] 10 years of age or older in a disciplinary [~~an~~] alternative education program as provided in Section 37.008.

SECTION 8. Section 37.008, Education Code, is amended to read as follows:

Sec. 37.008. DISCIPLINARY ALTERNATIVE EDUCATION PROGRAMS.

(a) Each school district shall provide a disciplinary [~~an~~] alternative education program that:

(1) is provided in a setting other than a student's regular classroom;

(2) is located on or off of a regular school campus;

(3) provides for the students who are assigned to the disciplinary alternative education program to be separated from students who are not assigned to the program;

(4) focuses on English language arts, mathematics, science, history, and self-discipline;

(5) provides for students' educational and behavioral needs; [~~and~~]

(6) provides supervision and counseling;

(7) operates for the number of days required by Section 25.081;

(8) requires that to teach in an off-campus disciplinary alternative education program, each teacher meet all certification requirements established under Subchapter B, Chapter 21; and

(9) notwithstanding Subdivision (8), requires that to teach in a disciplinary alternative education program of any kind, each teacher employed by a school district during the 2003-2004 school year or an earlier school year meet, not later than the beginning of the 2005-2006 school year, all certification requirements established under Subchapter B, Chapter 21.

(b) A disciplinary [~~An~~] alternative education program may provide for a student's transfer to:

(1) a different campus;

(2) a school-community guidance center; or

(3) a community-based alternative school.

(c) An off-campus disciplinary alternative education program is not subject to a requirement imposed by this title, other than a limitation on liability, a reporting requirement, or a requirement imposed by this chapter or by Chapter 39.

(d) A school district may provide a disciplinary ~~[am]~~ alternative education program jointly with one or more other districts.

(e) Each school district shall cooperate with government agencies and community organizations that provide services in the district to students placed in a disciplinary ~~[am]~~ alternative education program.

(f) A student removed to a disciplinary ~~[am]~~ alternative education program is counted in computing the average daily attendance of students in the district for the student's time in actual attendance in the program.

(g) A school district shall allocate to a disciplinary ~~[am]~~ alternative education program the same expenditure per student attending the disciplinary alternative education program, including federal, state, and local funds, that would be allocated to the student's school if the student were attending the student's regularly assigned education program, including a special education program.

(h) A school district may not place a student, other than a student suspended as provided under Section 37.005 or expelled as provided under Section 37.007, in an unsupervised setting as a result of conduct for which a student may be placed in a disciplinary ~~[am]~~ alternative education program.

(i) On request of a school district, a regional education service center may provide to the district information on developing a disciplinary ~~[am]~~ alternative education program that takes into consideration the district's size, wealth, and existing facilities in determining the program best suited to the district.

(j) If a student placed in a disciplinary ~~[am]~~ alternative education program enrolls in another school district before the expiration of the period of placement, the board of trustees of the district requiring the placement shall provide to the district in which the student enrolls, at the same time other records of the student are provided, a copy of the placement order. The district in which the student enrolls may continue the disciplinary alternative education program placement under the terms of the order or may allow the student to attend regular classes without completing the period of placement. A district may take any action permitted by this subsection if:

(1) the student was placed in a disciplinary alternative education program by an open-enrollment charter school under Section 12.131 and the charter school provides to the district a copy of the placement order; or

(2) the student was placed in a disciplinary alternative education program by a school district in another state and:

(A) the out-of-state district provides to the district a copy of the placement order; and

(B) the grounds for the placement by the out-of-state district are grounds for placement in the district in which the student is enrolling.

(j-1) If a student was placed in a disciplinary alternative education program by a school district in another state for a period that exceeds one year and a school district in this state in which the student enrolls continues the placement under Subsection (j), the district shall reduce the period of the placement so that the aggregate period does not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student.

(k) A program of educational and support services may be provided to a student and the student's parents when the offense involves drugs or alcohol as specified under Section 37.006 or 37.007. A disciplinary [An] alternative education program that provides chemical dependency treatment services must be licensed under Chapter 464, Health and Safety Code.

(l) A school district is [~~not~~] required to provide in the district's disciplinary alternative education program a course necessary to fulfill a student's high school graduation requirements only as provided by this subsection. A school district shall offer a student removed to a disciplinary alternative education program an opportunity to complete coursework sufficient to allow advancement in grade before the beginning of the next school year. The school district may provide the student an opportunity to complete coursework through any method available, including a correspondence course, distance learning, or summer school. The district may not charge the student for a course provided under this subsection [other than a course specified by Subsection (a)].

(m) The commissioner shall adopt rules necessary to evaluate annually the performance of each district's disciplinary alternative education program established under this subchapter. The evaluation required by this section shall be based on indicators defined by the commissioner, but must include student performance on assessment instruments required under Sections 39.023(a) and (c). Academically, the mission of disciplinary alternative education programs shall be to enable students to perform at grade level.

(—1) The commissioner shall develop a process for evaluating a school district disciplinary alternative education program electronically. The commissioner shall also develop a system and standards for review of the evaluation or use systems already available at the agency. The system must be designed to identify districts that are at high risk of having inaccurate disciplinary alternative education program data or of failing to comply with disciplinary alternative education program requirements. The commissioner shall notify the board of trustees of a district of any objection the commissioner has to the district's disciplinary alternative education program data or of a violation of a law or rule revealed by the data, including any violation of disciplinary alternative education program requirements, or of any recommendation by the commissioner concerning the data. If the data reflect that a penal law has been violated, the commissioner shall notify the county attorney, district attorney, or criminal district attorney, as appropriate, and the attorney general. The commissioner is entitled to access to all district records the commissioner considers necessary or appropriate for the review, analysis, or approval of disciplinary alternative education program data.

(n) A school district may not, under a policy, contract, or other agreement with or for the benefit of a third party, agree to:

(1) remove a minimum number of students to a disciplinary alternative education program during the course of a school year; or

(2) place students in a disciplinary alternative education program for a minimum number of days.

SECTION 9. Section 37.009, Education Code, is amended by amending Subsections (a) through (e), (g), and (h) and adding Subsections (i) and (j) to read as follows:

(a) Not later than the third class day after the day on which a student is removed from class by the teacher under Section 37.002(b) or (d) or by the school principal or other appropriate administrator under Section 37.001(a)(2) or 37.006, the principal or other appropriate administrator shall schedule a conference among the principal or other appropriate administrator, a parent or guardian of the student, the teacher removing the student from class, if any, and the student. At the conference, the student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal. The student may not be returned to the regular classroom pending the conference. Following the conference, and whether or not each requested person is in attendance after valid attempts to require the person's attendance, the principal shall order the placement of the student ~~[as provided by Section 37.002 or 37.006, as applicable,]~~ for a period consistent with the student code of conduct. If the period of the placement is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of the placement may not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student.

(b) If a student's placement in a disciplinary [am] alternative education program is to extend beyond 60 days or the end of the next grading period, whichever is earlier, a student's parent or guardian is entitled to notice of and an opportunity to participate in a proceeding before the board of trustees of the school district or the board's designee, as provided by policy of the board of trustees of the district. Any decision of the board or the board's designee under this subsection is final and may not be appealed.

(c) Before it may place a student in a disciplinary [am] alternative education program for a period that extends beyond the end of the school year, the board or the board's designee must determine that:

(1) the student's presence in the regular classroom program or at the student's regular campus presents a danger of physical harm to the student or to another individual; or

(2) the student has engaged in serious or persistent misbehavior that violates the district's student code of conduct.

(d) The board or the board's designee shall set a term for a student's placement in a disciplinary [am] alternative education program. If the period of the placement is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of the placement may not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student [under Section 37.002 or 37.006].

(e) A student placed in a disciplinary [am] alternative education program [under Section 37.002 or 37.006] shall be provided a review of the student's status, including a review of the student's academic status, by the board's designee at intervals not to exceed 60 [120] days. In the case of a high school student, the board's designee, with the student's parent or guardian, shall review the student's progress towards meeting high school graduation requirements and shall establish a specific graduation plan for the student. The district is not required under this subsection to provide a course in the district's disciplinary alternative education program except as required by Section 37.008(1) [a course not specified under Section 37.008(a)]. At the review, the student or the student's parent or guardian must be given the opportunity to present arguments for the student's return to the regular classroom or campus. The student may not be returned to the classroom of the teacher who removed the student without that teacher's consent. The teacher may not be coerced to consent.

(g) The board or the board's designee shall deliver to the student and the student's parent or guardian a copy of the order placing the student in a disciplinary [am] alternative education program under Section 37.001, 37.002, or 37.006 or expelling the student under Section 37.007.

(h) If the period of an expulsion is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of an expulsion may not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student. After a school district notifies the parents or guardians of a student that the student has been expelled, the parent or guardian shall provide adequate supervision of the student during the period of expulsion.

(i) If a student withdraws from the district before an order for placement in a disciplinary alternative education program or expulsion is entered under this section, the principal or board, as appropriate, may complete the proceedings and enter an order. If the student subsequently enrolls in the district during the same or subsequent school year, the district may enforce the order at that time except for any period of the placement or expulsion that has been served by the student on enrollment in another district that honored the order. If the principal or board fails to enter an order after the student withdraws, the next district in which the student enrolls may complete the proceedings and enter an order.

(j) If, during the term of a placement or expulsion ordered under this section, a student engages in additional conduct for which placement in a disciplinary alternative education program or expulsion is required or permitted, additional proceedings may be conducted under this section regarding that conduct and the principal or board, as appropriate, may enter an additional order as a result of those proceedings.

SECTION 10. Section 37.010, Education Code, is amended by amending Subsections (a) and (c) through (g) and adding Subsection (g-1) to read as follows:

(a) Not later than the second business day after the date a hearing is held under Section 37.009, the board of trustees of a school district or the board's designee shall deliver a copy of the order placing a student in a disciplinary ~~(an)~~ alternative education program under Section 37.006 or expelling a student under Section 37.007 and any information required under Section 52.04, Family Code, to the authorized officer of the juvenile court in the county in which the student resides. In a county that operates a program under Section 37.011, an expelled student shall to the extent provided by law or by the memorandum of understanding immediately attend the educational program from the date of expulsion, ~~except~~ ~~[- provided, however,]~~ that in a county with a population greater than 125,000, every expelled student who is not detained or receiving treatment under an order of the juvenile court must be enrolled in an educational program.

(c) Unless the juvenile board for the county in which the district's central administrative office is located has entered into a memorandum of understanding with the district's board of trustees concerning the juvenile probation department's role in supervising and providing other support services for students in disciplinary alternative education programs, a court may not order a student expelled under Section 37.007 to attend a regular classroom, a regular campus, or a school district disciplinary alternative education program as a condition of probation.

(d) Unless the juvenile board for the county in which the district's central administrative office is located has entered into a memorandum of understanding as described by Subsection (c), if a court orders a student to attend a disciplinary ~~(an)~~ alternative education program as a condition of probation once during a school year and the student is referred to juvenile court again during that school year, the juvenile court may not order the student to attend a disciplinary ~~(an)~~ alternative education program in a district without the district's consent until the student has successfully completed any sentencing requirements the court imposes.

(e) Any placement in a disciplinary ~~(an)~~ alternative education program by a court under this section must prohibit the student from attending or participating in school-sponsored or school-related activities.

(f) If a student is expelled under Section 37.007, on the recommendation of the committee established under Section 37.003 or on its own initiative, a district may readmit the student while the student is completing any court disposition requirements the court imposes. After the student has successfully completed any court disposition requirements the court imposes, including conditions of a deferred prosecution ordered by the court, or such conditions required by the prosecutor or probation department, if the student meets the requirements for admission into the public schools established by this title, a district may not refuse to admit the student, but the district may place the student in the disciplinary alternative education program. Notwithstanding Section 37.002(d), the student may not be returned to the classroom of the teacher under whose supervision the offense occurred without that teacher's consent. The teacher may not be coerced to consent.

(g) If an expelled student enrolls in another school district, the board of trustees of the district that expelled the student shall provide to the district in which the student enrolls, at the same time other records of the student are provided, a copy of the expulsion order and the referral to the authorized officer of the juvenile court. The

district in which the student enrolls may continue the expulsion under the terms of the order, may place the student in a disciplinary [am] alternative education program for the period specified by the expulsion order, or may allow the student to attend regular classes without completing the period of expulsion. A district may take any action permitted by this subsection if:

(1) the student was expelled by a school district in another state if:

(A) the out-of-state district provides to the district a copy of the expulsion order; and

(B) the grounds for the expulsion are also grounds for expulsion in the district in which the student is enrolling.

(g-1) If a student was expelled by a school district in another state for a period that exceeds one year and a school district in this state continues the expulsion or places the student in a disciplinary alternative education program under Subsection (g), the district shall reduce the period of the expulsion or placement so that the aggregate period does not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student.

SECTION 11. Section 37.011, Education Code, is amended by amending Subsections (a), (b), (h), (k), (l) and adding Subsection (k-1) to read as follows:

(a) The juvenile board of a county with a population greater than 125,000 shall develop a juvenile justice alternative education program, subject to the approval of the Texas Juvenile Probation Commission. The juvenile board of a county with a population of 125,000 or less may develop a juvenile justice alternative education program. For the purposes of this subchapter, only a disciplinary alternative education program operated under the authority of a juvenile board of a county is considered a juvenile justice alternative education program. A juvenile justice alternative education program in a county with a population of 125,000 or less:

(1) is not required to be approved by the Texas Juvenile Probation Commission; and

(2) is not subject to Subsection (c), (d), (f), or (g).

(b) If a student is expelled from school for conduct for which expulsion is required under Section 37.007(a), (d), or (e), the juvenile court shall:

(1) if the student is placed on probation under Section 54.04, Family Code, order the student to attend the juvenile justice alternative education program in the county in which the student resides from the date of disposition as a condition of probation, unless the child is placed in a post-adjudication treatment facility;

(2) if the student is placed on deferred prosecution under Section 53.03, Family Code, by the court, prosecutor, or probation department, require the student to immediately attend the juvenile justice alternative education program in the county in which the student resides for a period not to exceed six months as a condition of the deferred prosecution; and

(3) in determining the conditions of the deferred prosecution or court-ordered probation, consider the length of the school district's expulsion order for the student.

(h) Academically, the mission of juvenile justice alternative education programs shall be to enable students to perform at grade level. For purposes of accountability under Chapter 39, a student enrolled in a juvenile justice alternative education program is reported as if the student were enrolled at the student's assigned campus in the student's regularly assigned education program, including a special education program. Annually the Texas Juvenile Probation Commission, with the agreement of the commissioner, shall develop and implement a system of accountability consistent with Chapter 39, where appropriate, to assure that students make progress toward grade level while attending a juvenile justice alternative education program. The Texas Juvenile Probation Commission shall adopt rules for the distribution of funds appropriated under this section to juvenile boards in counties required to establish juvenile justice alternative education programs. Except as determined by the commissioner, a student served by a juvenile justice alternative education program on the basis of an expulsion required under Section 37.007(a), (d), or (e) is not eligible for Foundation School Program funding under Chapter 42 or 31 if the juvenile justice alternative education program receives funding from the Texas Juvenile Probation Commission under this subchapter.

(k) Each school district in a county with a population greater than 125,000 and the county juvenile board shall annually enter into a joint memorandum of understanding that:

(1) outlines the responsibilities of the juvenile board concerning the establishment and operation of a juvenile justice alternative education program under this section;

(2) defines the amount and conditions on payments from the school district to the juvenile board for students of the school district served in the juvenile justice alternative education program whose placement was not made on the basis of an expulsion required under Section 37.007(a), (d), or (e);

(3) identifies those categories of conduct that the school district has defined in its student code of conduct as constituting serious or persistent misbehavior for which a student may be placed in the juvenile justice alternative education program;

(4) identifies and requires a timely placement and specifies a term of placement for expelled students for whom the school district has received a notice under Section 52.041(d), Family Code;

(5) establishes services for the transitioning of expelled students to the school district prior to the completion of the student's placement in the juvenile justice alternative education program;

(6) establishes a plan that provides transportation services for students placed in the juvenile justice alternative education program;

(7) establishes the circumstances and conditions under which a juvenile may be allowed to remain in the juvenile justice alternative education program setting once the juvenile is no longer under juvenile court jurisdiction; and

(8) establishes a plan to address special education services required by law.

(k-1) Unless otherwise agreed to in writing, an open-enrollment charter school that elects to expel students under Section 12.131 is subject to a memorandum of understanding entered into under Subsection (k) or negotiated by the open-enrollment charter and the county juvenile board.

(l) The school district shall be responsible for providing an immediate educational program to students who engage in behavior resulting in expulsion under Section 37.007(b), (c), and (f) but who are not eligible for admission into the juvenile justice alternative education program in accordance with the memorandum of understanding required under this section. The school district may provide the program or the school district may contract with a county juvenile board, a private provider, or one or more other school districts to provide the program. The memorandum of understanding shall address the circumstances under which such students who continue to engage in serious or persistent misbehavior shall be admitted into the juvenile justice alternative education program.

SECTION 12. Section 37.012, Education Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) Subject to Section 37.011(n), the school district in which a student is enrolled on the date the student is expelled for conduct for which expulsion is permitted but not required under Section 37.007 ~~[on a basis other than Section 37.007(a), (d), or (e)]~~ shall, if the student is served by the juvenile justice alternative education program, provide funding to the juvenile board for the portion of the school year for which the juvenile justice alternative education program provides educational services in an amount determined by the memorandum of understanding under Section 37.011(k)(2).

(d) A school district is not required to provide funding to a juvenile board for a student who is assigned by a court to a juvenile justice alternative education program but who has not been expelled.

SECTION 13. Section 37.013, Education Code, is amended to read as follows:

Sec. 37.013. COORDINATION BETWEEN SCHOOL DISTRICTS AND JUVENILE BOARDS. The board of trustees of the school district or the board's designee shall at the call of the president of the board of trustees regularly meet with the juvenile board for the county in which the district's central administrative office is located or the juvenile board's designee concerning supervision and rehabilitative services appropriate for expelled students and students assigned to disciplinary alternative education programs. Matters for discussion shall include service by probation officers at the disciplinary alternative education program site, recruitment of volunteers to serve as mentors and provide tutoring services, and coordination with other social service agencies.

SECTION 14. Subsections (a) and (c), Section 37.019, Education Code, are amended to read as follows:

(a) This subchapter does not prevent the principal or the principal's designee from ordering the immediate placement of a student in a disciplinary ~~[the]~~ alternative education program if the principal or the principal's designee reasonably believes the student's behavior is so unruly, disruptive, or abusive that it seriously interferes with a teacher's ability to communicate effectively with the students in a class, with the ability of the student's classmates to learn, or with the operation of school or a school-sponsored activity.

(c) At the time of an emergency placement or expulsion, the student shall be given oral notice of the reason for the action. The reason must be a reason for which placement in a disciplinary alternative education program or expulsion may be made

on a nonemergency basis. Within a reasonable time after the emergency placement or expulsion, but not later than the 10th day after the date of the placement or expulsion, the student shall be accorded the appropriate due process as required under Section 37.009. If the student subject to the emergency placement or expulsion is a student with disabilities who receives special education services, the ~~[term of the student's]~~ emergency placement or expulsion is subject to federal law and regulations and must be consistent with the consequences that would apply under this subchapter to a student without a disability ~~[the requirements of 20 U.S.C. Section 1415(j) and (k)].~~

SECTION 15. Section 37.020, Education Code, is amended to read as follows:

Sec. 37.020. REPORTS RELATING TO EXPULSIONS AND DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM PLACEMENTS. (a) In the manner required by the commissioner, each school district shall annually report to the commissioner the information required by this section.

(b) For~~[-~~

~~[(1) for]~~ each placement in a disciplinary ~~[an]~~ alternative education program established under Section 37.008, the district shall report:

(1) ~~[(A)]~~ information identifying the student, including the student's race, sex, and date of birth, that will enable the agency to compare placement data with information collected through other reports;

(2) ~~[(B)]~~ information indicating whether the placement was based on:

(A) ~~[(i)]~~ conduct violating the student code of conduct adopted under Section 37.001;

(B) ~~[(ii)]~~ conduct for which a student may be removed from class under Section 37.002(b);

(C) ~~[(iii)]~~ conduct for which placement in a disciplinary ~~[an]~~ alternative education program is required by Section 37.006; or

(D) ~~[(iv)]~~ conduct occurring while a student was enrolled in another district and for which placement in a disciplinary ~~[an]~~ alternative education program is permitted by Section 37.008(j); ~~[and]~~

(3) ~~[(C)]~~ the number of full or partial days the student was assigned to the program and the number of full or partial days the student attended the program; and

(4) the number of placements that were inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5).

(c) For ~~[(2) for]~~ each expulsion under Section 37.007, the district shall report:

(1) ~~[(A)]~~ information identifying the student, including the student's race, sex, and date of birth, that will enable the agency to compare placement data with information collected through other reports;

(2) ~~[(B)]~~ information indicating whether the expulsion was based on:

(A) ~~[(i)]~~ conduct for which expulsion is required under Section 37.007, including information specifically indicating whether a student was expelled on the basis of Section 37.007(e); or

(B) ~~[(ii)]~~ conduct~~[- other than conduct described by Subparagraph (iii);]~~ for which expulsion is permitted under Section 37.007; ~~[or~~

~~[(iii) serious or persistent misbehavior occurring while the student was placed in an alternative education program;]~~

(3) ~~[(C)]~~ the number of full or partial days the student was expelled; ~~[and]~~

(4) ~~(D)~~ information indicating whether:

(A) ~~(A)~~ the student was placed in a juvenile justice alternative education program under Section 37.011;

(B) ~~(B)~~ the student was placed in a disciplinary ~~[am]~~ alternative education program; or

(C) ~~(C)~~ the student was not placed in a juvenile justice or other disciplinary alternative education program; and

(5) the number of expulsions that were inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5).

SECTION 16. Subchapter A, Chapter 37, Education Code, is amended by adding Section 37.021 to read as follows:

Sec. 37.021. OPPORTUNITY TO COMPLETE COURSES DURING IN-SCHOOL AND CERTAIN OTHER PLACEMENTS. (a) If a school district removes a student from the regular classroom and places the student in in-school suspension or another setting other than a disciplinary alternative education program, the district shall offer the student the opportunity to complete before the beginning of the next school year each course in which the student was enrolled at the time of the removal.

(b) The district may provide the opportunity to complete courses by any method available, including a correspondence course, distance learning, or summer school.

SECTION 17. Subsection (b), Section 37.121, Education Code, is amended to read as follows:

(b) A school district board of trustees or an educator shall recommend placing in a disciplinary ~~[am]~~ alternative education program any student under the person's control who violates Subsection (a).

SECTION 18. Subsection (e), Section 39.053, Education Code, is amended to read as follows:

(e) The report may include the following information:

(1) student information, including total enrollment, enrollment by ethnicity, socioeconomic status, and grade groupings and retention rates;

(2) financial information, including revenues and expenditures;

(3) staff information, including number and type of staff by gender, ethnicity, years of experience, and highest degree held, teacher and administrator salaries, and teacher turnover;

(4) program information, including student enrollment by program, teachers by program, and instructional operating expenditures by program; and

(5) the number of students placed in a disciplinary ~~[am]~~ alternative education program under Chapter 37.

SECTION 19. Subsection (b), Article 15.27, Code of Criminal Procedure, is amended to read as follows:

(b) On conviction, deferred prosecution, or deferred adjudication or ~~[am]~~ an adjudication of delinquent conduct of an individual enrolled as a student in a public primary or secondary school, for an offense or for any conduct listed in Subsection (h) of this article, the office of the prosecuting attorney acting in the case shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of the conviction or adjudication. Oral

notification must be given within 24 hours of the time of the order [~~determination of guilt,~~] or on the next school day. The superintendent shall promptly notify all instructional and support personnel who have regular contact with the student. Within seven days after the date the oral notice is given, the office of the prosecuting attorney shall mail written notice, which must contain a statement of the offense of which the individual is convicted or on which the adjudication, deferred adjudication, or deferred prosecution is grounded.

SECTION 20. Subdivision (2), Subsection (e), Article 15.27, Code of Criminal Procedure, is amended to read as follows:

(2) On conviction, deferred prosecution, or deferred adjudication or an adjudication of delinquent conduct of an individual enrolled as a student in a private primary or secondary school, the office of prosecuting attorney shall make the oral and written notifications described by Subsection (b) of this article to the principal or a school employee designated by the principal of the school in which the student is enrolled.

SECTION 21. Subsection (g), Article 15.27, Code of Criminal Procedure, is amended to read as follows:

(g) The office of the prosecuting attorney or the office or official designated by the juvenile board shall, within two working days, notify the school district that removed a student to a disciplinary [~~an~~] alternative education program under Section 37.006, Education Code, if:

(1) prosecution of the student's case was refused for lack of prosecutorial merit or insufficient evidence and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated; or

(2) the court or jury found the student not guilty or made a finding the child did not engage in delinquent conduct or conduct indicating a need for supervision and the case was dismissed with prejudice.

SECTION 22. Section 164.006, Health and Safety Code, is amended to read as follows:

Sec. 164.006. SOLICITING AND CONTRACTING WITH CERTAIN REFERRAL SOURCES. A treatment facility or a person employed or under contract with a treatment facility, if acting on behalf of the treatment facility, may not:

(1) contact a referral source or potential client for the purpose of soliciting, directly or indirectly, a referral of a patient to the treatment facility without disclosing its soliciting agent's, employee's, or contractor's affiliation with the treatment facility;

(2) offer to provide or provide mental health or chemical dependency services to a public or private school in this state, on a part-time or full-time basis, the services of any of its employees or agents who make, or are in a position to make, a referral, if the services are provided on an individual basis to individual students or their families. Nothing herein prohibits a treatment facility from:

(A) offering or providing educational programs in group settings to public schools in this state if the affiliation between the educational program and the treatment facility is disclosed;

(B) providing counseling services to a public school in this state in an emergency or crisis situation if the services are provided in response to a specific request by a school; provided that, under no circumstances may a student be referred to the treatment facility offering the services; or

(C) entering into a contract under Section 464.020 with the board of trustees of a school district with a disciplinary ~~[an]~~ alternative education program ~~[under Section 464.020]~~, or with the board's designee, for the provision of chemical dependency treatment services;

(3) provide to an entity of state or local government, on a part-time or full-time basis, the mental health or chemical dependency services of any of its employees, agents, or contractors who make or are in a position to make referrals unless:

(A) the treatment facility discloses to the governing authority of the entity:

(i) the employee's, agent's, or contractor's relationship to the facility; and

(ii) the fact that the employee, agent, or contractor might make a referral, if permitted, to the facility; and

(B) the employee, agent, or contractor makes a referral only if:

(i) the treatment facility obtains the governing authority's authorization in writing for the employee, agent, or contractor to make the referrals; and

(ii) the employee, agent, or contractor discloses to the prospective patient the employee's, agent's, or contractor's relationship to the facility at initial contact; or

(4) in relation to intervention and assessment services, contract with, offer to remunerate, or remunerate a person who operates an intervention and assessment service that makes referrals to a treatment facility for inpatient treatment of mental illness or chemical dependency unless the intervention and assessment service is:

(A) operated by a community mental health and mental retardation center funded by the Texas Department of Mental Health and Mental Retardation;

(B) operated by a county or regional medical society;

(C) a qualified mental health referral service as defined by Section 164.007; or

(D) owned and operated by a nonprofit or not-for-profit organization offering counseling concerning family violence, help for runaway children, or rape.

SECTION 23. Section 464.020, Health and Safety Code, is amended to read as follows:

Sec. 464.020. ADDITIONAL REQUIREMENTS FOR DISCIPLINARY ALTERNATIVE EDUCATION TREATMENT PROGRAMS. (a) A disciplinary ~~[An]~~ alternative education program under Section 37.008, Education Code, may apply for a license under this chapter to offer chemical dependency treatment services.

(b) The board of trustees of a school district with a disciplinary ~~[an]~~ alternative education program, or the board's designee, shall employ a mental health professional, as defined by Section 164.003, to provide the services authorized by a license issued under this chapter to the disciplinary alternative education program.

(c) The commission may not issue a license that authorizes a disciplinary [am] alternative education program to provide detoxification or residential services.

(d) The board of trustees of a school district with a disciplinary [am] alternative education program, or the board's designee, may contract with a private treatment facility or a person employed by or under contract with a private treatment facility to provide chemical dependency treatment services. The contract may not permit the services to be provided at a site that offers detoxification or residential services. Section 164.006 applies to a contract made under this section.

SECTION 24. (a) This Act applies beginning with the 2003-2004 school year, except that Subdivision (8), Subsection (a), Section 37.008, Education Code, as added by this Act, applies beginning with the 2004-2005 school year.

(b) The changes in law made by this Act relating to conduct for which a student may be removed to a disciplinary alternative education program or expelled apply to conduct that occurs on or after the effective date of this Act.

SECTION 25. 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, 2003.

Renumber sections accordingly.

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

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

HB 1314 as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1314 ON THIRD READING

Senator Averitt moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1314** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 31, Nays 0.

The bill was read third time and was passed by the following vote: Yeas 31, Nays 0.

MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 28, 2003

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 208, Requesting congress to direct the National Park Service, U.S. Department of the Interior, to acquire concurrent legislative jurisdiction for Big Bend National Park and the Rio Grande Wild and Scenic River.

HCR 218, Memorializing congress to urge the EPA to redesignate El Paso from a nonattainment area to an attainment area.

SB 19, Relating to audit and other related functions of the State Auditor and of certain other state entities.

(Committee Substitute/Amended)

SB 392, Relating to a repeal of exemptions from certain truth-in-taxation provisions for certain conservation and reclamation districts.

(Committee Substitute/Amended)

SB 1107, Relating to the assignment and compensation of certain justices or judges as visiting judges and to service credit in the judicial retirement system for certain visiting judges.

(Committee Substitute)

SB 1165, Relating to certain fees in Title IV-D cases.

(Committee Substitute)

SB 1252, Relating to the regulation of certain activities associated with providing private security.

(Committee Substitute)

SB 1273, Relating to suspension and alternatives to suspension of alcoholic beverage licenses and permits.

(Committee Substitute)

SB 1318, Relating to authorization of securities lending for governmental entities.

(Committee Substitute)

SB 1343, Relating to the regulation and operation of certain career schools and colleges.

(Committee Substitute)

SB 1460, Relating to county fire marshals and county fire protection; providing penalties.

(Committee Substitute)

SB 1465, Relating to the establishment of criminal law magistrates in Harris County.

(Committee Substitute)

SB 1472, Relating to zoological operation and maintenance boards; authorizing taxes and bonds.

(Committee Substitute)

SB 1488, Relating to the misconduct of a person who is employed by or is seeking employment by a school district, regional education service center, or shared services arrangement.

(Committee Substitute)

SB 1551, Relating to the creation of additional judicial districts, to filing fees in the district courts in Collin County, and to the jurisdiction of the county courts at law in Cameron County.

(Committee Substitute)

SB 1633, Relating to the installation and use of a water softener or reverse osmosis system by an owner of an on-site sewage disposal system.

(Committee Substitute)

SB 1705, Relating to the authority of certain taxing entities to repeal the local sales and use tax exemption for telecommunications services.

(Committee Substitute/Amended)

SB 1708, Relating to the repurchase of real property acquired by a governmental entity through eminent domain.

(Committee Substitute/Amended)

SB 1765, Relating to the zoning authority of a county in areas surrounding Lake Ralph Hall.

(Committee Substitute)

SB 1784, Relating to the imposition and allocation of municipal hotel occupancy taxes in certain general-law coastal municipalities.

(Committee Substitute)

SB 1803, Relating to certain licensing requirements and violations under the Texas Food, Drug, and Cosmetic Act; providing penalties.

(Committee Substitute)

SB 1804, Relating to certain health care treatment plans and pharmaceutical services.

(Committee Substitute/Amended)

SB 1888, Relating to the creation, administration, powers, duties, operation, and financing of the Southeast Texas Groundwater Conservation District.

(Committee Substitute)

SB 1902, Relating to the creation, administration, powers, duties, operation, and financing of the Rio Grande Regional Water Authority and to the powers and duties of the Rio Grande watermaster and the delivery of water down the banks and bed of the Rio Grande; authorizing the issuance of bonds.

(Committee Substitute/Amended)

SB 1904, Relating to driver's licenses, the operation of certain motor vehicles, including commercial motor vehicles, in this state, and to the disposition of certain Class C misdemeanors.

(Committee Substitute)

SB 1912, Relating to the creation of the Harborside Management District; providing authority to impose taxes and issue bonds.

(Committee Substitute)

SB 1936, Relating to the creation of the Buffalo Bayou Management District; providing the authority to impose taxes and issue bonds.
(Committee Substitute)

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

HB 54 (non-record vote)

HB 212 (non-record vote)

HB 567 (House concurs by a vote of 144 yeas, 0 nays, 2 pnv)

HB 673 (House concurs by a vote of 142 yeas, 0 nays, 2 pnv)

HB 803 (non-record vote)

HB 1020 (non-record vote)

HB 1518 (House concurs by a vote of 139 yeas, 0 nays, 2 pnv)

HB 1549 (non-record vote)

HB 1670 (non-record vote)

HB 1882 (non-record vote)

HB 1959 (House concurs by a vote of 142 yeas, 0 nays, 2 pnv)

HB 2071 (House concurs by a vote of 139 yeas, 0 nays, 2 pnv)

HB 2185 (non-record vote)

HB 2250 (non-record vote)

HB 2320 (House concurs by a vote of 142 yeas, 0 nays, 2 pnv)

HB 2377 (House concurs by a vote of 139 yeas, 0 nays, 2 pnv)

HB 2529 (House concurs by a vote of 135 yeas, 0 nays, 2 pnv)

HB 2540 (House concurs by a vote of 141 yeas, 0 nays, 2 pnv)

HB 2622 (non-record vote)

HB 2703 (House concurs by a vote of 140 yeas, 0 nays, 2 pnv)

HB 3175 (House concurs by a vote of 137 yeas, 1 nay, 2 pnv)

HB 3304 (non-record vote)

HB 3552 (House concurs by a vote of 144 yeas, 0 nays, 2 pnv)

HCR 59 (non-record vote)

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

HB 329

House Conferees: Naishtat - Chair/Madden/Ritter/Seaman/Taylor/

HB 335

House Conferees: Hamric - Chair/Casteel/Lewis/McCall/Pickett/

HB 425

House Conferees: Christian - Chair/Bonnen/Eissler/Keffer, Jim/McClendon/

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

SB 14

House Conferees: Smithee - Chair/Capelo/Nixon/Seaman/Taylor/

Respectfully,

/s/Robert Haney, Chief Clerk
House of Representatives

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 418**

Senator Nelson submitted the following Conference Committee Report:

Austin, Texas
May 23, 2003

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 418** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

NELSON
VAN DE PUTTE
DEUELL
JANEK
ELLIS

SMITHEE
TRUITT
EILAND
E. JONES
ISETT

On the part of the Senate

On the part of the House

**A BILL TO BE ENTITLED
AN ACT**

relating to the regulation and prompt payment of health care providers; providing penalties.

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

SECTION 1. Section 1, Article 3.70-3C, Insurance Code, as added by Chapter 1024, Acts of the 75th Legislature, Regular Session, 1997, is amended by adding Subdivisions (14) and (15) to read as follows:

(14) "Preauthorization" means a determination by an insurer that medical care or health care services proposed to be provided to a patient are medically necessary and appropriate.

(15) "Verification" means a reliable representation by an insurer to a physician or health care provider that the insurer will pay the physician or provider for proposed medical care or health care services if the physician or provider renders

those services to the patient for whom the services are proposed. The term includes precertification, certification, recertification, and any other term that would be a reliable representation by an insurer to a physician or provider.

SECTION 2. Section 3A, Article 3.70-3C, Insurance Code, as added by Chapter 1024, Acts of the 75th Legislature, Regular Session, 1997, is amended to read as follows:

Sec. 3A. PROMPT PAYMENT OF [~~PREFERRED~~] PROVIDERS. (a) In this section, "clean claim" means a [~~completed~~] claim that complies with Section 3C of this article, ~~as determined under department rules, submitted by a preferred provider for medical care or health care services under a health insurance policy~~.

(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 or health maintenance organization showing that the physician or provider submitted the claim to the insurer or 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 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].~~

(c) Except as provided by Article 21.52Z of this code, a physician or provider may, as appropriate:

(1) mail a claim by United States mail, first class, or by overnight delivery service;

(2) submit the claim electronically;

(3) fax the claim; or

(4) hand deliver the claim.

(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 fifth 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.

(e) Except as provided by Subsection (j) of this section, not ~~[Not]~~ later than the 45th day after the date ~~[that]~~ the insurer receives a clean claim from a preferred provider in a nonelectronic format or the 30th day after the date the insurer receives a clean claim from a preferred provider that is electronically submitted, the insurer shall make a determination of whether the claim is payable and:

(1) if the insurer determines the entire claim is payable, pay the total amount of the claim in accordance with the contract between the preferred provider and the insurer;

(2) if the insurer determines a portion of the claim is payable, pay the portion of the claim that is not in dispute and notify the preferred provider in writing why the remaining portion of the claim will not be paid; or

(3) if the insurer determines that the claim is not payable, notify the preferred provider in writing why the claim will not be paid.

(f) Not later than the 21st day after the date an insurer affirmatively adjudicates a pharmacy claim that is electronically submitted, the insurer shall pay the total amount of the claim ~~[(d) If a prescription benefit claim is electronically adjudicated and electronically paid, and the preferred provider or its designated agent authorizes treatment, the claim must be paid not later than the 21st day after the treatment is authorized].~~

(g) Except as provided by Subsection (j) of this section, if ~~[(e) If]~~ the insurer ~~[acknowledges coverage of an insured under the health insurance policy but]~~ intends to audit the preferred provider claim, the insurer shall pay the charges submitted at 100 ~~[85]~~ percent of the contracted rate on the claim not later than the 30th day after the date the insurer receives the clean claim from the preferred provider if submitted electronically or if submitted nonelectronically not later than the 45th day after the date ~~[that]~~ the insurer receives the clean claim from the preferred provider. The insurer shall clearly indicate on the explanation of payment statement in the manner prescribed by the commissioner by rule that the clean claim is being paid at 100 percent of the contracted rate, subject to completion of the audit. If the insurer requests additional information to complete the audit, the request must describe with specificity the clinical information requested and relate only to information the insurer in good faith can demonstrate is specific to the claim or episode of care. The insurer may not request as a part of the audit information that is not contained in, or is not in the process of being incorporated into, the patient's medical or billing record maintained by a preferred provider. If the preferred provider does not supply information reasonably requested by the insurer in connection with the audit, the insurer may:

(1) notify the provider in writing that the provider must provide the information not later than the 45th day after the date of the notice or forfeit the amount of the claim; and

(2) if the provider does not provide the information required by this subsection, recover the amount of the claim.

(h) The insurer must complete ~~Following completion of~~ the audit on or before the 180th day after the date the clean claim is received by the insurer, and any additional payment due a preferred provider or any refund due the insurer shall be made not later than the 30th day after the completion of the audit. If a preferred provider disagrees with a refund request made by an insurer based on the audit, the insurer shall provide the provider with an opportunity to appeal, and the insurer may not attempt to recover the payment until all appeal rights are exhausted ~~later of the date that:~~

~~(1) the preferred provider receives notice of the audit results; or~~

~~(2) any appeal rights of the insured are exhausted.~~

(i) The investigation and determination of payment, including any coordination of other payments, does not extend the period for determining whether a claim is payable under Subsection (e) or (f) of this section or for auditing a claim under Subsection (g) of this section.

(j) If an insurer needs additional information from a treating preferred provider to determine payment, the insurer, not later than the 30th calendar day after the date the insurer receives a clean claim, shall request in writing that the preferred provider provide an attachment to the claim that is relevant and necessary for clarification of the claim. The request must describe with specificity the clinical information requested and relate only to information the insurer can demonstrate is specific to the claim or the claim's related episode of care. The preferred provider is not required to provide an attachment that is not contained in, or is not in the process of being incorporated into, the patient's medical or billing record maintained by a preferred provider. An insurer that requests an attachment under this subsection shall determine whether the claim is payable on or before the later of the 15th day after the date the insurer receives the requested attachment or the latest date for determining whether the claim is payable under Subsection (e) or (f) of this section. An insurer may not make more than one request under this subsection in connection with a claim. Subsections (c) and (d) of this section apply to a request for and submission of an attachment under this subsection.

(k) If an insurer requests an attachment or other information from a person other than the preferred provider who submitted the claim, the insurer shall provide notice containing the name of the physician or provider from whom the insurer is requesting information to the preferred provider who submitted the claim. The insurer may not withhold payment pending receipt of an attachment or information requested under this subsection. If on receiving an attachment or information requested under this subsection the insurer determines that there was an error in payment of the claim, the insurer may recover any overpayment under Section 3D of this article.

(l) The commissioner shall adopt rules under which an insurer can easily identify attachments or other information submitted by a physician or provider under Subsection (j) or (k) of this section.

(m) The insurer's claims payment processes shall:

(1) use nationally recognized, generally accepted Current Procedural Terminology codes, notes, and guidelines, including all relevant modifiers; and

(2) be consistent with nationally recognized, generally accepted bundling edits and logic ~~[(f) An insurer that violates Subsection (e) or (e) of this section is liable to a preferred provider for the full amount of billed charges submitted on the claim or the amount payable under the contracted penalty rate, less any amount previously paid or any charge for a service that is not covered by the health insurance policy].~~

(n) [(g)] A preferred provider may recover reasonable attorney's fees and court costs in an action to recover payment under this section.

(o) [(h) In addition to any other penalty or remedy authorized by this code or another insurance law of this state, an insurer that violates Subsection (e) or (e) of this section is subject to an administrative penalty under Article 1.10E of this code. The administrative penalty imposed under that article may not exceed \$1,000 for each day the claim remains unpaid in violation of Subsection (e) or (e) of this section.

[(t)] The insurer shall provide a preferred provider with copies of all applicable utilization review policies and claim processing policies or procedures ~~[, including required data elements and claim formats].~~

(p) [(j) An insurer may, by contract with a preferred provider, add or change the data elements that must be submitted with the preferred provider claim.

[(k) Not later than the 60th day before the date of an addition or change in the data elements that must be submitted with a claim or any other change in an insurer's claim processing and payment procedures, the insurer shall provide written notice of the addition or change to each preferred provider.

[(l) This section does not apply to a claim made by a preferred provider who is a member of the legislature.

[(m) This section applies to a person with whom an insurer contracts to process claims or to obtain the services of preferred providers to provide medical care or health care to insureds under a health insurance policy.

[(n)] The commissioner of insurance may adopt rules as necessary to implement this section.

(q) Except as provided by Subsection (b) of this section, the provisions of this section may not be waived, voided, or nullified by contract.

SECTION 3. Article 3.70-3C, Insurance Code, as added by Chapter 1024, Acts of the 75th Legislature, Regular Session, 1997, is amended by adding Sections 3C-3J and 10-12 to read as follows:

Sec. 3C. ELEMENTS OF CLEAN CLAIM. (a) A nonelectronic claim by a physician or provider, other than an institutional provider, is a "clean claim" if the claim is submitted using the Centers for Medicare and Medicaid Services Form 1500 or, if adopted by the commissioner by rule, a successor to that form developed by the National Uniform Claim Committee or its successor. An electronic claim by a physician or provider, other than an institutional provider, is a "clean claim" if the claim is submitted using the Professional 837 (ASC X12N 837) format or, if adopted by the commissioner by rule, a successor to that format adopted by the Centers for Medicare and Medicaid Services or its successor.

(b) A nonelectronic claim by an institutional provider is a "clean claim" if the claim is submitted using the Centers for Medicare and Medicaid Services Form UB-92 or, if adopted by the commissioner by rule, a successor to that form developed by the National Uniform Billing Committee or its successor. An electronic claim by an institutional provider is a "clean claim" if the claim is submitted using the Institutional 837 (ASC X12N 837) format or, if adopted by the commissioner by rule, a successor to that format adopted by the Centers for Medicare and Medicaid Services or its successor.

(c) The commissioner may adopt rules that specify the information that must be entered into the appropriate fields on the applicable claim form for a claim to be a clean claim.

(d) The commissioner may not require any data element for an electronic claim that is not required in an electronic transaction set needed to comply with federal law.

(e) An insurer and a preferred provider may agree by contract to use fewer data elements than are required in an electronic transaction set needed to comply with federal law.

(f) An otherwise clean claim submitted by a physician or provider that includes additional fields, data elements, attachments, or other information not required under this section is considered to be a clean claim for the purposes of this article.

(g) Except as provided by Subsection (e) of this section, the provisions of this section may not be waived, voided, or nullified by contract.

Sec. 3D. OVERPAYMENT. (a) An insurer may recover an overpayment to a physician or provider if:

(1) not later than the 180th day after the date the physician or provider receives the payment, the insurer provides written notice of the overpayment to the physician or provider that includes the basis and specific reasons for the request for recovery of funds; and

(2) the physician or provider does not make arrangements for repayment of the requested funds on or before the 45th day after the date the physician or provider receives the notice.

(b) If a physician or provider disagrees with a request for recovery of an overpayment, the insurer shall provide the physician or provider with an opportunity to appeal, and the insurer may not attempt to recover the overpayment until all appeal rights are exhausted.

Sec. 3E. VERIFICATION. (a) In this section, "verification" includes preauthorization only when preauthorization is a condition for the verification.

(b) On the request of a preferred provider for verification of a particular medical care or health care service the preferred provider proposes to provide to a particular patient, the insurer shall inform the preferred provider without delay whether the service, if provided to that patient, will be paid by the insurer and shall specify any deductibles, copayments, or coinsurance for which the insured is responsible.

(c) An insurer shall have appropriate personnel reasonably available at a toll-free telephone number to provide a verification under this section between 6 a.m. and 6 p.m. central time Monday through Friday on each day that is not a legal holiday and between 9 a.m. and noon central time on Saturday, Sunday, and legal holidays. An insurer must have a telephone system capable of accepting or recording incoming

phone calls for verifications after 6 p.m. central time Monday through Friday and after noon central time on Saturday, Sunday, and legal holidays and responding to each of those calls on or before the second calendar day after the date the call is received.

(d) An insurer may decline to determine eligibility for payment if the insurer notifies the physician or preferred provider who requested the verification of the specific reason the determination was not made.

(e) An insurer may establish a specific period during which the verification is valid of not less than 30 days.

(f) An insurer that declines to provide a verification shall notify the physician or provider who requested the verification of the specific reason the verification was not provided.

(g) If an insurer has provided a verification for proposed medical care or health care services, the insurer may not deny or reduce payment to the physician or provider for those medical care or health care services if provided to the insured on or before the 30th day after the date the verification was provided unless the physician or provider has materially misrepresented the proposed medical or health care services or has substantially failed to perform the proposed medical or health care services.

(h) The provisions of this section may not be waived, voided, or nullified by contract.

Sec. 3F. COORDINATION OF PAYMENT. (a) An insurer may require a physician or provider to retain in the physician's or provider's records updated information concerning other health benefit plan coverage and to provide the information to the insurer on the applicable form described by Section 3C of this article. Except as provided by this subsection, an insurer may not require a physician or provider to investigate coordination of other health benefit plan coverage.

(b) Coordination of payment under this section does not extend the period for determining whether a service is eligible for payment under Section 3A(e) or (f) of this article or for auditing a claim under Section 3A(g) of this article.

(c) A physician or provider who submits a claim for particular medical care or health care services to more than one health maintenance organization or insurer shall provide written notice on the claim submitted to each health maintenance organization or insurer of the identity of each other health maintenance organization or insurer with which the same claim is being filed.

(d) On receipt of notice under Subsection (c) of this section, an insurer shall coordinate and determine the appropriate payment for each health maintenance organization or insurer to make to the physician or provider.

(e) Except as provided by Subsection (f) of this section, if an insurer is a secondary payor and pays a portion of a claim that should have been paid by the insurer or health maintenance organization that is the primary payor, the overpayment may only be recovered from the health maintenance organization or insurer that is primarily responsible for that amount.

(f) If the portion of the claim overpaid by the secondary insurer was also paid by the primary health maintenance organization or insurer, the secondary insurer may recover the amount of overpayment under Section 3D of this article from the physician or provider who received the payment. An insurer processing an electronic

claim as a secondary payor shall rely on the primary payor information submitted on the claim by the physician or provider. Primary payor information may be submitted electronically by the primary payor to the secondary payor.

(g) An insurer may share information with a health maintenance organization or another insurer to the extent necessary to coordinate appropriate payment obligations on a specific claim.

(h) The provisions of this section may not be waived, voided, or nullified by contract.

Sec. 3G. PREAUTHORIZATION OF MEDICAL AND HEALTH CARE SERVICES. (a) An insurer that uses a preauthorization process for medical care and health care services shall provide to each preferred provider, not later than the 10th business day after the date a request is made, a list of medical care and health care services that require preauthorization and information concerning the preauthorization process.

(b) If proposed medical care or health care services require preauthorization as a condition of the insurer's payment to a preferred provider under a health insurance policy, the insurer shall determine whether the medical care or health care services proposed to be provided to the insured are medically necessary and appropriate.

(c) On receipt of a request from a preferred provider for preauthorization, the insurer shall review and issue a determination indicating whether the proposed medical or health care services are preauthorized. The determination must be issued and transmitted not later than the third calendar day after the date the request is received by the insurer.

(d) If the proposed medical care or health care services involve inpatient care and the insurer requires preauthorization as a condition of payment, the insurer shall review the request and issue a length of stay for the admission into a health care facility based on the recommendation of the patient's physician or provider and the insurer's written medically accepted screening criteria and review procedures. If the proposed medical or health care services are to be provided to a patient who is an inpatient in a health care facility at the time the services are proposed, the insurer shall review the request and issue a determination indicating whether proposed services are preauthorized within 24 hours of the request by the physician or provider.

(e) An insurer shall have appropriate personnel reasonably available at a toll-free telephone number to respond to requests for a preauthorization between 6 a.m. and 6 p.m. central time Monday through Friday on each day that is not a legal holiday and between 9 a.m. and noon central time on Saturday, Sunday, and legal holidays. An insurer must have a telephone system capable of accepting or recording incoming phone calls for preauthorizations after 6 p.m. central time Monday through Friday and after noon central time on Saturday, Sunday, and legal holidays and responding to each of those calls not later than 24 hours after the call is received.

(f) If an insurer has preauthorized medical care or health care services, the insurer may not deny or reduce payment to the physician or provider for those services based on medical necessity or appropriateness of care unless the physician or provider has materially misrepresented the proposed medical or health care services or has substantially failed to perform the proposed medical or health care services.

(g) This section applies to an agent or other person with whom an insurer contracts to perform, or to whom the insurer delegates the performance of, preauthorization of proposed medical or health care services.

(h) The provisions of this section may not be waived, voided, or nullified by contract.

Sec. 3H. AVAILABILITY OF CODING GUIDELINES. (a) A contract between an insurer and a preferred provider must provide that:

(1) the preferred provider may request a description and copy of the coding guidelines, including any underlying bundling, recoding, or other payment process and fee schedules applicable to specific procedures that the preferred provider will receive under the contract;

(2) the insurer or the insurer's agent will provide the coding guidelines and fee schedules not later than the 30th day after the date the insurer receives the request;

(3) the insurer or the insurer's agent will provide notice of changes to the coding guidelines and fee schedules that will result in a change of payment to the preferred provider not later than the 90th day before the date the changes take effect and will not make retroactive revisions to the coding guidelines and fee schedules; and

(4) the contract may be terminated by the preferred provider on or before the 30th day after the date the preferred provider receives information requested under this subsection without penalty or discrimination in participation in other health care products or plans.

(b) A preferred provider who receives information under Subsection (a) of this section may only:

(1) use or disclose the information for the purpose of practice management, billing activities, and other business operations; and

(2) disclose the information to a governmental agency involved in the regulation of health care or insurance.

(c) The insurer shall, on request of the preferred provider, provide the name, edition, and model version of the software that the insurer uses to determine bundling and unbundling of claims.

(d) The provisions of this section may not be waived, voided, or nullified by contract.

Sec. 3I. VIOLATION OF CLAIMS PAYMENT REQUIREMENTS; PENALTY. (a) Except as provided by this section, if a clean claim submitted to an insurer is payable and the insurer does not determine under Section 3A of this article that the claim is payable and pay the claim on or before the date the insurer is required to make a determination or adjudication of the claim, the insurer shall pay the preferred provider making the claim the contracted rate owed on the claim plus a penalty in the amount of the lesser of:

(1) 50 percent of the difference between the billed charges, as submitted on the claim, and the contracted rate; or

(2) \$100,000.

(b) If the claim is paid on or after the 46th day and before the 91st day after the date the insurer is required to make a determination or adjudication of the claim, the insurer shall pay a penalty in the amount of the lesser of:

(1) 100 percent of the difference between the billed charges, as submitted on the claim, and the contracted rate; or

(2) \$200,000.

(c) If the claim is paid on or after the 91st day after the date the insurer is required to make a determination or adjudication of the claim, the insurer shall pay a penalty computed under Subsection (b) of this section plus 18 percent annual interest on that amount. Interest under this subsection accrues beginning on the date the insurer was required to pay the claim and ending on the date the claim and the penalty are paid in full.

(d) Except as provided by this section, an insurer that determines under Section 3A of this article that a claim is payable, pays only a portion of the amount of the claim on or before the date the insurer is required to make a determination or adjudication of the claim, and pays the balance of the contracted rate owed for the claim after that date shall pay to the preferred provider, in addition to the contracted amount owed, a penalty on the amount not timely paid in the amount of the lesser of:

(1) 50 percent of the underpaid amount; or

(2) \$100,000.

(e) If the balance of the claim is paid on or after the 46th day and before the 91st day after the date the insurer is required to make a determination or adjudication of the claim, the insurer shall pay a penalty on the balance of the claim in the amount of the lesser of:

(1) 100 percent of the underpaid amount; or

(2) \$200,000.

(f) If the balance of the claim is paid on or after the 91st day after the date the insurer is required to make a determination or adjudication of the claim, the insurer shall pay a penalty on the balance of the claim computed under Subsection (e) of this section plus 18 percent annual interest on that amount. Interest under this subsection accrues beginning on the date the insurer was required to pay the claim and ending on the date the claim and the penalty are paid in full.

(g) For the purposes of Subsections (d) and (e) of this section, the underpaid amount is calculated on the ratio of the amount underpaid on the contracted rate to the contracted rate as applied to the billed charges as submitted on the claim.

(h) An insurer is not liable for a penalty under this section:

(1) if the failure to pay the claim in accordance with Section 3A of this article is a result of a catastrophic event that substantially interferes with the normal business operations of the insurer; or

(2) if the claim was paid in accordance with Section 3A of this article, but for less than the contracted rate, and:

(A) the preferred provider notifies the insurer of the underpayment after the 180th day after the date the underpayment was received; and

(B) the insurer pays the balance of the claim on or before the 45th day after the date the insurer receives the notice.

(i) Subsection (h) of this section does not relieve the insurer of the obligation to pay the remaining unpaid contracted rate owed the preferred provider.

(j) An insurer that pays a penalty under this section shall clearly indicate on the explanation of payment statement in the manner prescribed by the commissioner by rule the amount of the contracted rate paid and the amount paid as a penalty.

(k) In addition to any other penalty or remedy authorized by this code, an insurer that violates Section 3A(e), (f), or (g) of this article in processing more than two percent of clean claims submitted to the insurer is subject to an administrative penalty under Chapter 84 of this code. For each day an administrative penalty is imposed under this subsection, the penalty may not exceed \$1,000 for each claim that remains unpaid in violation of Section 3A(e), (f), or (g) of this article. In determining whether an insurer has processed preferred provider claims in compliance with Section 3A(e), (f), or (g) of this article, the commissioner shall consider paid claims, other than claims that have been paid under Section 3A(g) of this article, and shall compute a compliance percentage for physician and provider claims, other than institutional provider claims, and a compliance percentage for institutional provider claims.

Sec. 3J. APPLICABILITY OF ARTICLE TO ENTITIES CONTRACTING WITH INSURER. Sections 3A-3I of this article apply to a person with whom an insurer contracts to:

- (1) process or pay claims;
- (2) obtain the services of physicians and providers to provide health care services to insureds; or
- (3) issue verifications or preauthorizations.

Sec. 10. SERVICES PROVIDED BY CERTAIN PHYSICIANS AND PROVIDERS. The provisions of this article relating to prompt payment by an insurer of a physician or provider and to verification of medical care or health care services apply to a physician or provider who:

- (1) is not a preferred provider included in the preferred provider network;
- and
- (2) provides to an insured:
 - (A) care related to an emergency or its attendant episode of care as required by state or federal law; or

(B) specialty or other medical care or health care services at the request of the insurer or a preferred provider because the services are not reasonably available from a preferred provider who is included in the preferred delivery network.

Sec. 11. IDENTIFICATION CARD. An identification card or other similar document issued by an insurer regulated by this code and subject to this article to an individual insured must display:

- (1) the first date on which the individual became insured under the plan; or
- (2) a toll-free number a physician or provider may use to obtain that date.

Sec. 12. CONFLICT WITH OTHER LAW. To the extent of any conflict between this article and Article 21.52C of this code, this article controls.

SECTION 4. Subchapter F, Chapter 843, Insurance Code, as effective June 1, 2003, is amended by adding Section 843.209 to read as follows:

Sec. 843.209. IDENTIFICATION CARD. An identification card or other similar document issued by a health maintenance organization to an enrollee must:

(1) indicate that the health maintenance organization is regulated under this code and subject to the provisions of Subchapter J; and

(2) display:

(A) the first date on which the enrollee became enrolled; or

(B) a toll-free number a physician or provider may use to obtain that date.

SECTION 5. Subchapter I, Chapter 843, Insurance Code, as effective June 1, 2003, is amended by adding Section 843.319 to read as follows:

Sec. 843.319. AVAILABILITY OF CODING GUIDELINES. (a) A contract between a health maintenance organization and a physician or provider must provide that:

(1) the physician or provider may request a description and copy of the coding guidelines, including any underlying bundling, recoding, or other payment process and fee schedules applicable to specific procedures that the physician or provider will receive under the contract;

(2) the health maintenance organization or the health maintenance organization's agent will provide the coding guidelines and fee schedules not later than the 30th day after the date the health maintenance organization receives the request;

(3) the health maintenance organization or the health maintenance organization's agent will provide notice of changes to the coding guidelines and fee schedules that will result in a change of payment to the physician or provider not later than the 90th day before the date the changes take effect and will not make retroactive revisions to the coding guidelines and fee schedules; and

(4) the contract may be terminated by the physician or provider on or before the 30th day after the date the physician or provider receives information requested under this subsection without penalty or discrimination in participation in other health care products or plans.

(b) A physician or provider who receives information under Subsection (a) may only:

(1) use or disclose the information for the purpose of practice management, billing activities, and other business operations; and

(2) disclose the information to a governmental agency involved in the regulation of health care or insurance.

(c) The health maintenance organization shall, on request of the physician or provider, provide the name, edition, and model version of the software that the health maintenance organization uses to determine bundling and unbundling of claims.

(d) The provisions of this section may not be waived, voided, or nullified by contract.

SECTION 6. Section 843.336, Insurance Code, as effective June 1, 2003, is amended to read as follows:

Sec. 843.336. CLEAN CLAIM [DEFINITION]. (a) In this subchapter, "clean claim" means a [completed] claim that complies with this section[; as determined under department rules, submitted by a physician or provider for health care services under a health care plan].

(b) A nonelectronic claim by a physician or provider, other than an institutional provider, is a clean claim if the claim is submitted using the Centers for Medicare and Medicaid Services Form 1500 or, if adopted by the commissioner by rule, a successor to that form developed by the National Uniform Claim Committee or its successor. An electronic claim by a physician or provider, other than an institutional provider, is a clean claim if the claim is submitted using the Professional 837 (ASC X12N 837) format or, if adopted by the commissioner by rule, a successor to that format adopted by the Centers for Medicare and Medicaid Services or its successor.

(c) A nonelectronic claim by an institutional provider is a clean claim if the claim is submitted using the Centers for Medicare and Medicaid Services Form UB-92 or, if adopted by the commissioner by rule, a successor to that form developed by the National Uniform Billing Committee or its successor. An electronic claim by an institutional provider is a clean claim if the claim is submitted using the Institutional 837 (ASC X12N 837) format or, if adopted by the commissioner by rule, a successor to that format adopted by the Centers for Medicare and Medicaid Services or its successor.

(d) The commissioner may adopt rules that specify the information that must be entered into the appropriate fields on the applicable claim form for a claim to be a clean claim.

(e) The commissioner may not require any data element for an electronic claim that is not required in an electronic transaction set needed to comply with federal law.

(f) A health maintenance organization and a physician or provider may agree by contract to use fewer data elements than are required in an electronic transaction set needed to comply with federal law.

(g) An otherwise clean claim submitted by a physician or provider that includes additional fields, data elements, attachments, or other information not required under this section is considered to be a clean claim for the purposes of this section.

SECTION 7. Section 843.337, Insurance Code, as effective June 1, 2003, is amended to read as follows:

Sec. 843.337. TIME FOR SUBMISSION OF CLAIM; DUPLICATE CLAIMS; ACKNOWLEDGMENT OF RECEIPT OF CLAIM. (a) A physician or provider must submit a claim to a health maintenance organization not later than the 95th day after the date the physician or provider provides the 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 (e) or information from another health maintenance organization or insurer showing that the physician or provider submitted the claim to the health maintenance organization or insurer in compliance with Subsection (e).

(b) If a physician or provider fails to submit a claim in compliance with this section, the physician or provider forfeits the right to payment unless the failure to submit the claim in compliance with this section is a result of a catastrophic event that substantially interferes with the normal business operations of the physician or provider.

(c) The period for submitting a claim under this section may be extended by contract.

(d) 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.

(e) Except as provided by Article 21.52Z, a physician or provider may, as appropriate:

(1) mail a claim by United States mail, first class, or by overnight delivery service;

(2) submit the claim electronically;

(3) fax the claim; or

(4) hand deliver the claim.

(f) If a claim for health care services provided to a patient is mailed, the claim is presumed to have been received by the health maintenance organization on the fifth 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 [for health care services under a health care plan may obtain acknowledgment of receipt of a claim for health care services under a health care plan by submitting the claim by United States mail, return receipt requested.

~~[(b) 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 in writing].~~

SECTION 8. Section 843.338, Insurance Code, as effective June 1, 2003, is amended to read as follows:

Sec. 843.338. DEADLINE FOR ACTION ON CLEAN CLAIMS. Except as provided by Section 843.3385, not [Not] later than the 45th day after the date on which a health maintenance organization receives a clean claim from a participating physician or provider in a nonelectronic format or the 30th day after the date the health maintenance organization receives a clean claim from a participating physician or provider that is electronically submitted, the health maintenance organization shall make a determination of whether the claim is payable and:

(1) if the health maintenance organization determines the entire claim is payable, pay the total amount of the claim in accordance with the contract between the physician or provider and the health maintenance organization;

(2) if the health maintenance organization determines a portion of the claim is payable, pay the portion of the claim that is not in dispute and notify the physician or provider in writing why the remaining portion of the claim will not be paid; or

(3) if the health maintenance organization determines that the claim is not payable, notify the physician or provider in writing why the claim will not be paid.

SECTION 9. Subchapter J, Chapter 843, Insurance Code, as effective June 1, 2003, is amended by adding Section 843.3385 to read as follows:

Sec. 843.3385. ADDITIONAL INFORMATION. (a) If a health maintenance organization needs additional information from a treating participating physician or provider to determine payment, the health maintenance organization, not later than the 30th calendar day after the date the health maintenance organization receives a clean claim, shall request in writing that the physician or provider provide an attachment to the claim that is relevant and necessary for clarification of the claim.

(b) The request must describe with specificity the clinical information requested and relate only to information the health maintenance organization can demonstrate is specific to the claim or the claim's related episode of care. The participating physician or provider is not required to provide an attachment that is not contained in, or is not in the process of being incorporated into, the patient's medical or billing record maintained by a participating physician or provider.

(c) A health maintenance organization that requests an attachment under this section shall determine whether the claim is payable on or before the later of the 15th day after the date the health maintenance organization receives the requested attachment or the latest date for determining whether the claim is payable under Section 843.338 or 843.339.

(d) A health maintenance organization may not make more than one request under this section in connection with a claim. Sections 843.337(e) and (f) apply to a request for and submission of an attachment under Subsection (a).

(e) If a health maintenance organization requests an attachment or other information from a person other than the participating physician or provider who submitted the claim, the health maintenance organization shall provide notice containing the name of the physician or provider from whom the health maintenance organization is requesting information to the physician or provider who submitted the claim. The health maintenance organization may not withhold payment pending receipt of an attachment or information requested under this subsection. If on receiving an attachment or information requested under this subsection the health maintenance organization determines that there was an error in payment of the claim, the health maintenance organization may recover any overpayment under Section 843.350.

(f) The commissioner shall adopt rules under which a health maintenance organization can easily identify an attachment or other information submitted by a physician or provider under this section.

SECTION 10. Section 843.339, Insurance Code, as effective June 1, 2003, is amended to read as follows:

Sec. 843.339. DEADLINE FOR ACTION ON CERTAIN PRESCRIPTION [BENEFIT] CLAIMS. Not later than the 21st day after the date a health maintenance organization affirmatively adjudicates a pharmacy claim that is electronically

submitted, the health maintenance organization shall pay the total amount of the claim [If a health maintenance organization or its designated agent authorizes treatment, a prescription benefit claim that is electronically adjudicated and electronically paid shall be paid not later than the 21st day after the date on which the treatment is authorized].

SECTION 11. Section 843.340, Insurance Code, as effective June 1, 2003, is amended to read as follows:

Sec. 843.340. AUDITED CLAIMS. (a) Except as provided by Section 843.3385, if a [A] health maintenance organization [that acknowledges coverage of an enrollee under a health care plan but] intends to audit a claim submitted by a participating physician or provider, the health maintenance organization shall pay the charges submitted at 100 [85] percent of the contracted rate on the claim not later than the 30th day after the date the health maintenance organization receives the clean claim from the participating physician or provider if submitted electronically or if submitted nonelectronically not later than the 45th day after the date on which the health maintenance organization receives the clean claim from a participating physician or provider. The health maintenance organization shall clearly indicate on the explanation of payment statement in the manner prescribed by the commissioner by rule that the clean claim is being paid at 100 percent of the contracted rate, subject to completion of the audit.

(b) If the health maintenance organization requests additional information to complete the audit, the request must describe with specificity the clinical information requested and relate only to information the health maintenance organization in good faith can demonstrate is specific to the claim or episode of care. The health maintenance organization may not request as a part of the audit information that is not contained in, or is not in the process of being incorporated into, the patient's medical or billing record maintained by a participating physician or provider.

(c) If the participating physician or provider does not supply information reasonably requested by the health maintenance organization in connection with the audit, the health maintenance organization may:

(1) notify the physician or provider in writing that the physician or provider must provide the information not later than the 45th day after the date of the notice or forfeit the amount of the claim; and

(2) if the physician or provider does not provide the information required by this section, recover the amount of the claim.

(d) The health maintenance organization must complete [Following completion of] the audit on or before the 180th day after the date the clean claim is received by the health maintenance organization, and any additional payment due a participating physician or provider or any refund due the health maintenance organization shall be made not later than the 30th day after the completion of the audit.

(e) If a participating physician or provider disagrees with a refund request made by a health maintenance organization based on the audit, the health maintenance organization shall provide the physician or provider with an opportunity to appeal, and the health maintenance organization may not attempt to recover the payment until all appeal rights are exhausted [later of the date that:

(1) the physician or provider receives notice of the audit results; or

~~[(2) any appeal rights of the enrollee are exhausted].~~

SECTION 12. Subchapter J, Chapter 843, Insurance Code, as effective June 1, 2003, is amended by adding Section 843.3405 to read as follows:

Sec. 843.3405. INVESTIGATION AND DETERMINATION OF PAYMENT. The investigation and determination of payment, including any coordination of other payments, does not extend the period for determining whether a claim is payable under Section 843.338 or 843.339 or for auditing a claim under Section 843.340.

SECTION 13. Section 843.341, Insurance Code, as effective June 1, 2003, is amended to read as follows:

Sec. 843.341. CLAIMS PROCESSING PROCEDURES. (a) A health maintenance organization shall provide a participating physician or provider with copies of all applicable utilization review policies and claim processing policies or procedures~~[, including required data elements and claim formats].~~

(b) A health maintenance organization's claims payment processes shall:

(1) use nationally recognized, generally accepted Current Procedural Terminology codes, notes, and guidelines, including all relevant modifiers; and

(2) be consistent with nationally recognized, generally accepted bundling edits and logic ~~[organization may, by contract with a participating physician or provider, add or change the data elements that must be submitted with a claim from the physician or provider.~~

~~[(c) Not later than the 60th day before the date of an addition or change in the data elements that must be submitted with a claim or any other change in a health maintenance organization's claim processing and payment procedures, the health maintenance organization shall provide written notice of the addition or change to each participating physician or provider].~~

SECTION 14. Section 843.342, Insurance Code, as effective June 1, 2003, is amended to read as follows:

Sec. 843.342. VIOLATION OF CERTAIN CLAIMS PAYMENT PROVISIONS; PENALTIES ~~[ADMINISTRATIVE PENALTY]~~. (a) Except as provided by this section, if a clean claim submitted to a health maintenance organization is payable and the health maintenance organization does not determine under this subchapter that the claim is payable and pay the claim on or before the date the health maintenance organization is required to make a determination or adjudication of the claim, the health maintenance organization shall pay the physician or provider making the claim the contracted rate owed on the claim plus a penalty in the amount of the lesser of:

(1) 50 percent of the difference between the billed charges, as submitted on the claim, and the contracted rate; or

(2) \$100,000.

(b) If the claim is paid on or after the 46th day and before the 91st day after the date the health maintenance organization is required to make a determination or adjudication of the claim, the health maintenance organization shall pay a penalty in the amount of the lesser of:

(1) 100 percent of the difference between the billed charges, as submitted on the claim, and the contracted rate; or

(2) \$200,000.

(c) If the claim is paid on or after the 91st day after the date the health maintenance organization is required to make a determination or adjudication of the claim, the health maintenance organization shall pay a penalty computed under Subsection (b) plus 18 percent annual interest on that amount. Interest under this subsection accrues beginning on the date the health maintenance organization was required to pay the claim and ending on the date the claim and the penalty are paid in full.

(d) Except as provided by this section, a health maintenance organization that determines under this subchapter that a claim is payable, pays only a portion of the amount of the claim on or before the date the health maintenance organization is required to make a determination or adjudication of the claim, and pays the balance of the contracted rate owed for the claim after that date shall pay to the physician or provider, in addition to the contracted amount owed, a penalty on the amount not timely paid in the amount of the lesser of:

- (1) 50 percent of the underpaid amount; or
- (2) \$100,000.

(e) If the balance of the claim is paid on or after the 46th day and before the 91st day after the date the health maintenance organization is required to make a determination or adjudication of the claim, the health maintenance organization shall pay a penalty on the balance of the claim in the amount of the lesser of:

- (1) 100 percent of the underpaid amount; or
- (2) \$200,000.

(f) If the balance of the claim is paid on or after the 91st day after the date the health maintenance organization is required to make a determination or adjudication of the claim, the health maintenance organization shall pay a penalty on the balance of the claim computed under Subsection (e) plus 18 percent annual interest on that amount. Interest under this subsection accrues beginning on the date the health maintenance organization was required to pay the claim and ending on the date the claim and the penalty are paid in full.

(g) For the purposes of Subsections (d) and (e), the underpaid amount is calculated on the ratio of the amount underpaid on the contracted rate to the contracted rate as applied to the billed charges as submitted on the claim.

(h) A health maintenance organization is not liable for a penalty under this section:

(1) if the failure to pay the claim in accordance with this subchapter is a result of a catastrophic event that substantially interferes with the normal business operations of the health maintenance organization; or

(2) if the claim was paid in accordance with this subchapter, but for less than the contracted rate, and:

(A) the physician or provider notifies the health maintenance organization of the underpayment after the 180th day after the date the underpayment was received; and

(B) the health maintenance organization pays the balance of the claim on or before the 45th day after the date the health maintenance organization receives the notice.

(i) Subsection (h) does not relieve the health maintenance organization of the obligation to pay the remaining unpaid contracted rate owed the physician or provider.

(j) A health maintenance organization that pays a penalty under this section shall clearly indicate on the explanation of payment statement in the manner prescribed by the commissioner by rule the amount of the contracted rate paid and the amount paid as a penalty.

~~(k) [A health maintenance organization that violates Section 843.338 or 843.340 is liable to a physician or provider for the full amount of billed charges submitted on the claim or the amount payable under the contracted penalty rate, less any amount previously paid or any charge for a service that is not covered by the health care plan.~~

~~(h)~~ In addition to any other penalty or remedy authorized by this code, a health maintenance organization that violates Section 843.338, 843.339, or 843.340 in processing more than two percent of clean claims submitted to the health maintenance organization is subject to an administrative penalty under Chapter 84. For each day an ~~[The]~~ administrative penalty is imposed under this subsection, the penalty ~~[that chapter]~~ may not exceed \$1,000 for each ~~[day the]~~ claim that remains unpaid in violation of Section 843.338, 843.339, or 843.340.

(l) In determining whether a health maintenance organization has processed physician and provider claims in compliance with Section 843.338, 843.339, or 843.340, the commissioner shall consider paid claims, other than claims that have been paid under Section 843.340, and shall compute a compliance percentage for physician and provider claims, other than institutional provider claims, and a compliance percentage for institutional provider claims.

SECTION 15. Section 843.343, Insurance Code, as effective June 1, 2003, is amended to read as follows:

Sec. 843.343. ATTORNEY'S FEES. A physician or provider may recover reasonable attorney's fees and court costs in an action to recover payment under this subchapter ~~[Section 843.342]~~.

SECTION 16. Section 843.344, Insurance Code, as effective June 1, 2003, is amended to read as follows:

Sec. 843.344. APPLICABILITY OF SUBCHAPTER TO ENTITIES CONTRACTING WITH HEALTH MAINTENANCE ORGANIZATION. This subchapter applies ~~[Sections 843.336-843.343 apply]~~ to a person with whom a health maintenance organization contracts to:

- (1) process or pay claims; ~~[or]~~
- (2) obtain the services of physicians and providers to provide health care services to enrollees; or
- (3) issue verifications or preauthorizations.

SECTION 17. Section 843.345, Insurance Code, as effective June 1, 2003, is amended to read as follows:

Sec. 843.345. EXCEPTION ~~[EXCEPTIONS]~~. This subchapter does ~~[Sections 843.336-843.344 do]~~ not apply to:

~~[(+)]~~ a capitated payment required to be made to a physician or provider under an agreement to provide health care services, ~~[including medical care, under a health care plan; or~~

~~[(2) a claim submitted by a physician or provider who is a member of the legislature].~~

SECTION 18. Section 843.346, Insurance Code, as effective June 1, 2003, is amended to read as follows:

Sec. 843.346. PAYMENT OF CLAIMS. Except as provided by this subchapter [Subject to Sections 843.336-843.345], a health maintenance organization shall pay a physician or provider for health care services and benefits provided to an enrollee [under the evidence of coverage and to which the enrollee is entitled under the terms of the evidence of coverage] not later than:

(1) the 45th day after the date on which a claim for payment is received with the documentation reasonably necessary to process the claim; or

(2) if applicable, within the number of calendar days specified by written agreement between the physician or provider and the health maintenance organization.

SECTION 19. Subchapter J, Chapter 843, Insurance Code, as effective June 1, 2003, is amended by adding Sections 843.347-843.353 to read as follows:

Sec. 843.347. VERIFICATION. (a) In this section, "verification" means a reliable representation by a health maintenance organization to a physician or provider that the health maintenance organization will pay the physician or provider for proposed health care services if the physician or provider renders those services to the patient for whom the services are proposed. The term includes precertification, certification, recertification, and any other term that would be a reliable representation by a health maintenance organization to a physician or provider and includes preauthorization only when preauthorization is a condition for the verification.

(b) On the request of a physician or provider for verification of a particular health care service the participating physician or provider proposes to provide to a particular patient, the health maintenance organization shall inform the physician or provider without delay whether the service, if provided to that patient, will be paid by the health maintenance organization and shall specify any deductibles, copayments, or coinsurance for which the enrollee is responsible.

(c) A health maintenance organization shall have appropriate personnel reasonably available at a toll-free telephone number to provide a verification under this section between 6 a.m. and 6 p.m. central time Monday through Friday on each day that is not a legal holiday and between 9 a.m. and noon central time on Saturday, Sunday, and legal holidays. A health maintenance organization must have a telephone system capable of accepting or recording incoming phone calls for verifications after 6 p.m. central time Monday through Friday and after noon central time on Saturday, Sunday, and legal holidays and responding to each of those calls on or before the second calendar day after the date the call is received.

(d) A health maintenance organization may decline to determine eligibility for payment if the insurer notifies the physician or preferred provider who requested the verification of the specific reason the determination was not made.

(e) A health maintenance organization may establish a specific period during which the verification is valid of not less than 30 days.

(f) A health maintenance organization that declines to provide a verification shall notify the physician or provider who requested the verification of the specific reason the verification was not provided.

(g) If a health maintenance organization has provided a verification for proposed health care services, the health maintenance organization may not deny or reduce payment to the physician or provider for those health care services if provided to the enrollee on or before the 30th day after the date the verification was provided unless the physician or provider has materially misrepresented the proposed health care services or has substantially failed to perform the proposed health care services.

Sec. 843.348. PREAUTHORIZATION OF HEALTH CARE SERVICES.

(a) In this section, "preauthorization" means a determination by a health maintenance organization that health care services proposed to be provided to a patient are medically necessary and appropriate.

(b) A health maintenance organization that uses a preauthorization process for health care services shall provide each participating physician or provider, not later than the 10th business day after the date a request is made, a list of health care services that do not require preauthorization and information concerning the preauthorization process.

(c) If proposed health care services require preauthorization as a condition of the health maintenance organization's payment to a participating physician or provider, the health maintenance organization shall determine whether the health care services proposed to be provided to the enrollee are medically necessary and appropriate.

(d) On receipt of a request from a participating physician or provider for preauthorization, the health maintenance organization shall review and issue a determination indicating whether the health care services are preauthorized. The determination must be issued and transmitted not later than the third calendar day after the date the request is received by the health maintenance organization.

(e) If the proposed health care services involve inpatient care and the health maintenance organization requires preauthorization as a condition of payment, the health maintenance organization shall review the request and issue a length of stay for the admission into a health care facility based on the recommendation of the patient's physician or provider and the health maintenance organization's written medically accepted screening criteria and review procedures. If the proposed health care services are to be provided to a patient who is an inpatient in a health care facility at the time the services are proposed, the health maintenance organization shall review the request and issue a determination indicating whether proposed services are preauthorized within 24 hours of the request by the physician or provider.

(f) A health maintenance organization shall have appropriate personnel reasonably available at a toll-free telephone number to respond to requests for a preauthorization between 6 a.m. and 6 p.m. central time Monday through Friday on each day that is not a legal holiday and between 9 a.m. and noon central time on Saturday, Sunday, and legal holidays. A health maintenance organization must have a telephone system capable of accepting or recording incoming phone calls for preauthorizations after 6 p.m. central time Monday through Friday and after noon central time on Saturday, Sunday, and legal holidays and responding to each of those calls not later than 24 hours after the call is received.

(g) If the health maintenance organization has preauthorized health care services, the health maintenance organization may not deny or reduce payment to the physician or provider for those services based on medical necessity or appropriateness of care unless the physician or provider has materially misrepresented the proposed health care services or has substantially failed to perform the proposed health care services.

(h) This section applies to an agent or other person with whom a health maintenance organization contracts to perform, or to whom the health maintenance organization delegates the performance of, preauthorization of proposed health care services.

Sec. 843.349. COORDINATION OF PAYMENT. (a) A health maintenance organization may require a physician or provider to retain in the physician's or provider's records updated information concerning other health benefit plan coverage and to provide the information to the health maintenance organization on the applicable form described by Section 843.336. Except as provided by this section, a health maintenance organization may not require a physician or provider to investigate coordination of other health benefit plan coverage.

(b) Coordination of other payment under this section does not extend the period for determining whether a service is eligible for payment under Section 843.338 or 843.339 or for auditing a claim under Section 843.340.

(c) A participating physician or provider who submits a claim for particular health care services to more than one health maintenance organization or insurer shall provide written notice on the claim submitted to each health maintenance organization or insurer of the identity of each other health maintenance organization or insurer with which the same claim is being filed.

(d) On receipt of notice under Subsection (c), a health maintenance organization shall coordinate and determine the appropriate payment for each health maintenance organization or insurer to make to the physician or provider.

(e) Except as provided by Subsection (f), if a health maintenance organization is a secondary payor and pays a portion of a claim that should have been paid by the health maintenance organization or insurer that is the primary payor, the overpayment may only be recovered from the health maintenance organization or insurer that is primarily responsible for that amount.

(f) If the portion of the claim overpaid by the secondary health maintenance organization was also paid by the primary health maintenance organization or insurer, the secondary health maintenance organization may recover the amount of the overpayment under Section 843.350 from the physician or provider who received the payment. A health maintenance organization processing an electronic claim as a secondary payor shall rely on the primary payor information submitted on the claim by the physician or provider. Primary payor information may be submitted electronically by the primary payor to the secondary payor.

(g) A health maintenance organization may share information with another health maintenance organization or an insurer to the extent necessary to coordinate appropriate payment obligations on a specific claim.

Sec. 843.350. OVERPAYMENT. (a) A health maintenance organization may recover an overpayment to a physician or provider if:

(1) not later than the 180th day after the date the physician or provider receives the payment, the health maintenance organization provides written notice of the overpayment to the physician or provider that includes the basis and specific reasons for the request for recovery of funds; and

(2) the physician or provider does not make arrangements for repayment of the requested funds on or before the 45th day after the date the physician or provider receives the notice.

(b) If a physician or provider disagrees with a request for recovery of an overpayment, the health maintenance organization shall provide the physician or provider with an opportunity to appeal, and the health maintenance organization may not recover the overpayment until all appeal rights are exhausted.

Sec. 843.351. SERVICES PROVIDED BY CERTAIN PHYSICIANS AND PROVIDERS. The provisions of this subchapter relating to prompt payment by a health maintenance organization of a physician or provider and to verification of health care services apply to a physician or provider who:

(1) is not included in the health maintenance organization delivery network;
and

(2) provides to an enrollee:

(A) care related to an emergency or its attendant episode of care as required by state or federal law; or

(B) specialty or other health care services at the request of the health maintenance organization or a physician or provider who is included in the health maintenance organization delivery network because the services are not reasonably available within the network.

Sec. 843.352. CONFLICT WITH OTHER LAW. To the extent of any conflict between this subchapter and Article 21.52C, this subchapter controls.

Sec. 843.353. WAIVER PROHIBITED. Except as provided by Sections 843.336(f) and 843.337(c), the provisions of this subchapter may not be waived, voided, or nullified by contract.

SECTION 20. Subchapter E, Chapter 21, Insurance Code, is amended by adding Article 21.30 to read as follows:

Art. 21.30. WAIVER OF CERTAIN PROVISIONS FOR CERTAIN FEDERAL PLANS. If the commissioner of insurance, in consultation with the commissioner of health and human services, determines that a provision of Section 3A, 3C-3J, or 10-12, Article 3.70-3C, of this code, as added by Chapter 1024, Acts of the 75th Legislature, Regular Session, 1997, Section 843.209 or 843.319 of this code, Subchapter J, Chapter 843, of this code, or Article 21.52Z of this code will cause a negative fiscal impact on the state with respect to providing benefits or services under Subchapter XIX, Social Security Act (42 U.S.C. Section 1396 et seq.), as amended, or Subchapter XXI, Social Security Act (42 U.S.C. Section 1397aa et seq.), as amended, the commissioner of insurance by rule shall waive the application of that provision to the providing of those benefits or services.

SECTION 21. Subchapter E, Chapter 21, Insurance Code, is amended by adding Articles 21.52Y and 21.52Z to read as follows:

Art. 21.52Y. TECHNICAL ADVISORY COMMITTEE ON CLAIMS PROCESSING. (a) The commissioner shall appoint a technical advisory committee on claims processing by insurers and health maintenance organizations of claims by physicians and other health care providers for medical care and health care services provided to patients.

(b) The committee shall advise the commissioner on technical aspects of coding of health care services and claims development, submission, processing, adjudication, and payment, as well as the impact on those processes of contractual requirements and relationships, including relationships among employers, health benefit plans, insurers, health maintenance organizations, preferred provider organizations, electronic clearinghouses, physicians and other health care providers, third-party administrators, independent physician associations, and medical groups. The committee shall also advise the commissioner with respect to the implementation of the standardized coding and bundling edits and logic.

(c) The commissioner shall consult the advisory committee with respect to any rule related to the subjects described by Subsection (b) of this article before adopting the rule.

(d) On or before September 1 of each even-numbered year, the committee shall issue a report to the legislature on the activities of the committee.

(e) Members of the advisory committee serve without compensation.

(f) Section 39.003(a) of this code and Chapter 2110, Government Code, do not apply to the advisory committee established under this article.

Art. 21.52Z. ELECTRONIC HEALTH CARE TRANSACTIONS

Sec. 1. HEALTH BENEFIT PLAN DEFINED. (a) In this article, "health benefit plan" means a plan that provides benefits for medical, surgical, or other treatment expenses incurred as a result of a health condition, a mental health condition, an accident, sickness, or substance abuse, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, or an individual or group evidence of coverage or similar coverage document that is offered by:

(1) an insurance company;

(2) a group hospital service corporation operating under Chapter 842 of this code;

(3) a fraternal benefit society operating under Chapter 885 of this code;

(4) a stipulated premium insurance company operating under Chapter 884 of this code;

(5) a Lloyd's plan operating under Chapter 941 of this code;

(6) an exchange operating under Chapter 942 of this code;

(7) a health maintenance organization operating under Chapter 843 of this code;

(8) a multiple employer welfare arrangement that holds a certificate of authority under Chapter 846 of this code; or

(9) an approved nonprofit health corporation that holds a certificate of authority under Chapter 844 of this code.

(b) The term includes:

(1) a small employer health benefit plan written under Chapter 26 of this code; and

(2) a health benefit plan offered under Chapter 1551, 1575, or 1601 of this code or Article 3.50–7 of this code.

Sec. 2. ELECTRONIC SUBMISSION OF CLAIMS. (a) The issuer of a health benefit plan by contract may require that a health care professional licensed or registered under the Occupations Code or a health care facility licensed under the Health and Safety Code submit a health care claim or equivalent encounter information, a referral certification, or an authorization or eligibility transaction electronically. The health benefit plan issuer shall comply with the standards for electronic transactions required by this section and established by the commissioner by rule.

(b) The issuer of a health benefit plan by contract shall establish a default method to submit claims in a nonelectronic format if there is a system failure or failures or a catastrophic event substantially interferes with the normal business operations of the physician, provider, or health benefit plan or its agents. The health benefit plan issuer shall comply with the standards for nonelectronic transactions established by the commissioner by rule.

Sec. 2A. ELECTRONIC SUBMISSION OF CLAIMS: WAIVER. (a) A contract between the issuer of a health benefit plan and a health care professional or health care facility must provide for a waiver of any requirement for electronic submission established under this article.

(b) The commissioner shall establish circumstances under which a waiver is required, including:

(1) circumstances in which no method is available for the submission of claims in electronic form;

(2) the operation of small physician practices;

(3) the operation of other small health care provider practices;

(4) undue hardship, including fiscal or operational hardship; or

(5) any other special circumstance that would justify a waiver.

(c) Any health care professional or health care facility that is denied a waiver by a health benefit plan may appeal the denial to the commissioner. The commissioner shall determine whether a waiver must be granted.

(d) The issuer of a health benefit plan may not refuse to contract or renew a contract with a health care professional or health care facility based in whole or in part on the professional or facility requesting or receiving a waiver or appealing a waiver determination.

Sec. 3. MODE OF TRANSMISSION. The issuer of a health benefit plan may not by contract limit the mode of electronic transmission that a health care professional or health care facility may use to submit information under this article.

Sec. 4. CERTAIN CHARGES PROHIBITED. A health benefit plan may not directly or indirectly charge or hold a health care professional, health care facility, or person enrolled in a health benefit plan responsible for a fee for the adjudication of a claim.

Sec. 5. RULES. The commissioner may adopt rules as necessary to implement this article. The commissioner may not require any data element for electronically filed claims that is not required to comply with federal law.

SECTION 22. (a) As soon as practicable, but not later than the 30th day after the effective date of this Act, the commissioner of insurance shall appoint the technical advisory committee under Article 21.52Y, Insurance Code, as added by this Act.

(b) As soon as practicable, but not later than the 90th day after the effective date of this Act, the commissioner of insurance shall adopt rules as necessary to implement this Act. The commissioner may use the procedures under Section 2001.034, Government Code, for adopting emergency rules under this subsection. The commissioner is not required to make the finding described by Subsection (a), Section 2001.034, Government Code, to adopt emergency rules under this subsection.

SECTION 23. (a) With respect to a contract entered into between an insurer or health maintenance organization and a physician or health care provider, and payment for medical care or health care services under the contract, the changes in law made by this Act apply only to a contract entered into or renewed on or after the 60th day after the effective date of this Act and payment for services under the contract. Such a contract entered into before the 60th day after the effective date of this Act and not renewed or that was last renewed before the 60th day after the effective date of this Act, and payment for medical care or health care services under the contract, are governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) With respect to the payment for medical care or health care services provided, but not provided under a contract to which Subsection (a) of this section applies, the changes in law made by this Act apply only to the payment for those services provided on or after the 60th day after the effective date of this Act. Payment for those services provided before the 60th day after the effective date of this Act is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 24. This Act takes effect June 1, 2003, 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, 2003.

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
HOUSE BILL 1165**

Senator Janek submitted the following Conference Committee Report:

Austin, Texas
May 28, 2003

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1165** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

JANEK
FRASER
BRIMER
ARMBRISTER
DEUELL
On the part of the Senate

SOLOMONS
ELKINS
GIDDINGS
KOLKHORST
BOHAC
On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 504**

Senator Armbrister submitted the following Conference Committee Report:

Austin, Texas
May 28, 2003

Honorable David Dewhurst
President of the Senate

Honorable Tom Craddick
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **SB 504** have had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

ARMBRISTER
DUNCAN
WILLIAMS
LUCIO
OGDEN
On the part of the Senate

BOHAC
ELKINS
SOLOMONS
ELLIS
KOLKHORST
On the part of the House

A BILL TO BE ENTITLED
AN ACT

relating to a lien on a cause of action or claim of an individual who receives emergency medical services.

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

SECTION 1. Chapter 55, Property Code, is amended to read as follows:

CHAPTER 55. HOSPITAL AND EMERGENCY MEDICAL SERVICES LIENS ~~LIEN~~

Sec. 55.001. DEFINITIONS. In this chapter:

(1) "Emergency medical services" has the meaning assigned by Section 773.003, Health and Safety Code.

(2) "Emergency medical services provider" has the meaning assigned by Section 773.003, Health and Safety Code.

(3) "Hospital" means a person or institution maintaining a facility that provides hospital services in this state.

(4) ~~(2)~~ "Person" does not include a county, common, or independent school district.

Sec. 55.002. LIEN. (a) A hospital has a lien on a cause of action or claim of an individual who receives hospital services for injuries caused by an accident that is attributed to the negligence of another person. For the lien to attach, the individual must be admitted to a hospital not later than 72 hours after the accident.

(b) The lien extends to both the admitting hospital and a hospital to which the individual is transferred for treatment of the same injury.

(c) An emergency medical services provider has a lien on a cause of action or claim of an individual who receives emergency medical services in a county with a population of 575,000 or less for injuries caused by an accident that is attributed to the negligence of another person. For the lien to attach, the individual must receive the emergency medical services not later than 72 hours after the accident.

Sec. 55.003. PROPERTY TO WHICH LIEN ATTACHES. (a) A ~~The~~ lien under this chapter attaches to:

(1) a cause of action for damages arising from an injury for which the injured individual is admitted to the hospital or receives emergency medical services;

(2) a judgment of a court in this state or the decision of a public agency in a proceeding brought by the injured individual or by another person entitled to bring the suit in case of the death of the individual to recover damages arising from an injury for which the injured individual is admitted to the hospital or receives emergency medical services; and

(3) the proceeds of a settlement of a cause of action or a claim by the injured individual or another person entitled to make the claim, arising from an injury for which the injured individual is admitted to the hospital or receives emergency medical services.

(b) The lien does not attach to:

(1) a claim under the workers' compensation law of this state, the Federal Employees Liability Act, or the Federal Longshore and ~~Longshoremen's or~~ Harbor Workers' Compensation Act; or

~~(2) [a claim against the owner or operator of a railroad company that maintains or whose employees maintain a hospital in which the injured individual is receiving hospital services; or~~

~~[(3)] the proceeds of an insurance policy in favor of the injured individual or the injured individual's beneficiary or legal representative, except public liability insurance carried by the insured that protects the insured against loss caused by an accident or collision.~~

(c) A hospital lien described by Section 55.002(a) does not attach to a claim against the owner or operator of a railroad company that maintains or whose employees maintain a hospital in which the injured individual is receiving hospital services.

Sec. 55.004. AMOUNT OF LIEN. (a) In this section, "emergency hospital care" means health care services provided in a hospital to evaluate, stabilize, and treat a serious medical problem of recent onset or severity, including severe pain that would lead a prudent layperson possessing an average knowledge of medicine and health to believe that the condition, illness, or injury is of such a nature that failure to obtain immediate medical care would in all reasonable probability:

- (1) seriously jeopardize the patient's health;
- (2) seriously impair one or more bodily functions;
- (3) seriously harm an organ or other part of the body;
- (4) cause serious disfigurement; or
- (5) in the case of a pregnant woman, seriously jeopardize the health of the fetus.

(b) A hospital [The] lien described by Section 55.002(a) is for [The amount of the hospital's charges for services provided to the injured individual during the first 100 days of the injured individual's hospitalization.

(c) A hospital [The] lien described by Section 55.002(a) may also include the amount of a physician's reasonable and necessary charges for emergency hospital care services provided to the injured individual during the first seven days of the injured individual's hospitalization. At the request of the physician, the hospital may act on the physician's behalf in securing and discharging the lien.

(d) A hospital [The] lien described by Section 55.002(a) does not cover:

(1) charges for other services that exceed a reasonable and regular rate for the services;

(2) charges by the physician related to any services provided under Subsection (c) for which the physician has accepted insurance benefits or payment under a private medical indemnity plan or program, regardless of whether the benefits or payment equals the full amount of the physician's charges for those services;

(3) charges by the physician for services provided under Subsection (c) if the injured individual has coverage under a private medical indemnity plan or program from which the physician is entitled to recover payment for the physician's services under an assignment of benefits or similar rights; or

(4) charges by the physician related to any services provided under Subsection (c) if the physician is a member of the legislature.

(e) A hospital [The] lien described by Section 55.002(a) is not affected by a hospital's use of a method of classifying patients according to their ability to pay that is solely intended to obtain a lien for services provided to an indigent injured individual.

(f) An emergency medical services lien described by Section 55.002(c) is for the amount charged by the emergency medical services provider, not to exceed \$1,000, for emergency medical services provided to the injured individual during the 72 hours following the accident that caused the individual's injuries.

(g) An emergency medical services lien described by Section 55.002(c) does not cover:

(1) charges for services that exceed a reasonable and regular rate for the services;

(2) charges by the emergency medical services provider related to any services for which the emergency medical services provider has accepted insurance benefits or payment under a private medical indemnity plan or program, regardless of whether the benefits or payments equal the full amount of the charges for those services; or

(3) charges by the emergency medical services provider for services provided if the injured individual has coverage under a private medical indemnity plan or program from which the provider is entitled to recover payment for the provider's services under an assignment of benefits or similar right.

Sec. 55.005. SECURING LIEN. (a) To secure the lien, a hospital or emergency medical services provider must file written notice of the lien with the county clerk of the county in which the ~~hospital~~ services were provided. The notice must be filed before money is paid to an entitled person because of the injury.

(b) The notice must contain:

(1) the injured individual's name and address;

(2) the date of the accident;

(3) the name and location of the hospital or emergency medical services provider claiming the lien; and

(4) the name of the person alleged to be liable for damages arising from the injury, if known.

(c) The county clerk shall record the name of the injured individual, the date of the accident, and the name and address of the hospital or emergency medical services provider and shall index the record in the name of the injured individual.

Sec. 55.006. DISCHARGE OF LIEN. (a) To discharge a ~~the~~ lien under this chapter, the ~~hospital~~ authorities of the hospital or emergency medical services provider claiming the lien or the person in charge of the finances of the hospital or emergency medical services provider must execute and file with the county clerk of the county in which the lien notice was filed a certificate stating that the debt covered by the lien has been paid or released and authorizing the clerk to discharge the lien.

(b) The county clerk shall record a memorandum of the certificate and the date it was filed.

(c) The filing of the certificate and recording of the memorandum discharge the lien.

Sec. 55.007. VALIDITY OF RELEASE. (a) A release of a cause of action or judgment to which a ~~the~~ lien under this chapter may attach is not valid unless:

(1) the ~~hospital's~~ charges of the hospital or emergency medical services provider claiming the lien were paid in full before the execution and delivery of the release;

(2) the ~~hospital's~~ charges of the hospital or emergency medical services provider claiming the lien were paid before the execution and delivery of the release to the extent of any full and true consideration paid to the injured individual by or on behalf of the other parties to the release; or

(3) the hospital or emergency medical services provider claiming the lien is a party to the release.

(b) A judgment to which a ~~the~~ lien under this chapter has attached remains in effect until the ~~hospital's~~ charges of the hospital or emergency medical services provider claiming the lien are paid in full or to the extent set out in the judgment.

Sec. 55.008. ~~HOSPITAL~~ RECORDS. (a) On request by an attorney for a party by, for, or against whom a claim is asserted for damages arising from an injury, a hospital or emergency medical services provider shall as promptly as possible make available for the attorney's examination its records concerning the services provided to the injured individual.

(b) The hospital or emergency medical services provider may issue reasonable rules for granting access to its records under this section, but it may not deny access because a record is incomplete.

(c) The records are admissible, subject to applicable rules of evidence, in a civil suit arising from the injury.

SECTION 2. (a) This Act takes effect September 1, 2003.

(b) The change in law made by this Act applies only to emergency medical services provided by an emergency medical services provider on or after the effective date of this Act. Emergency medical services provided by an emergency medical services provider before the effective date of this Act are governed by the law in effect at the time the services were provided, and the former law is continued in effect for that purpose.

The Conference Committee Report was filed with the Secretary of the Senate.

RESOLUTIONS OF RECOGNITION

The following resolutions were adopted by the Senate:

Memorial Resolutions

SR 996 by Zaffirini, In memory of Enrique A. "Kike" Mejia, Jr., of Laredo.

HCR 258 (Ratliff), Honoring the life of Daon Wall of Paris, Texas.

HCR 266 (Ratliff), In memory of Donald R. Lewis, M.D., of Paris, Texas.

Congratulatory Resolutions

SR 988 by Barrientos, Commending Tony "T. C." Castillo for his contributions to the Austin Independent School District.

SR 989 by Williams, Congratulating Guy V. Lewis for his contributions to collegiate basketball in the State of Texas.

SR 990 by Barrientos, Commending Terina Reneé Conley of Austin for her contributions to the education of young Texans.

SR 991 by Barrientos, Commending Austin Community College on its 30th anniversary.

SR 992 by Lucio, Commending Blanca S. Vela for her contributions to the City of Brownsville.

SR 993 by Lucio, Commending Henry Gonzalez for his contributions to the City of Brownsville.

SR 994 by Lucio, Commending Ernie L. Hernandez, Jr., for his contributions to the City of Brownsville.

SR 995 by Lucio, Commending Eddie Trevino, Jr., for his contributions to the City of Brownsville.

SR 997 by Jackson, Commending Rebekah Baker and Amanda Hardy of Alvin for their part in the rescue of Chad Overton.

HCR 270 (Ratliff), Honoring Wendell Moore of Paris on his act of heroism in rescuing Lenore Gonzalez.

ADJOURNMENT

On motion of Senator Whitmire, the Senate at 1:05 a.m. Thursday, May 29, 2003, adjourned until 11:00 a.m. today.

APPENDIX

SENT TO GOVERNOR

May 28, 2003

SB 155, SB 253, SB 282, SB 333, SB 401, SB 443, SB 478, SB 529, SB 530, SB 533, SB 616, SB 658, SB 716, SB 801, SB 803, SB 853, SB 939, SB 1067, SB 1226, SB 1326, SB 1439, SB 1452, SB 1517, SB 1565, SB 1574, SB 1601, SB 1646, SB 1744, SB 1833, SB 1896, SB 1934, SCR 53, SCR 57

SIGNED BY GOVERNOR

May 28, 2003

SB 7, SB 40, SB 83, SB 100, SB 132, SB 173, SB 185, SB 189, SB 261, SB 313, SB 317, SB 324, SB 345, SB 358, SB 378, SB 408, SB 409, SB 421, SB 527, SB 558, SB 602, SB 604, SB 619, SB 640, SB 641, SB 652, SB 657, SB 725, SB 726, SB 737, SB 749, SB 825, SB 850, SB 903, SB 984, SB 996, SB 1012, SB 1050, SB 1051, SB 1063, SB 1111, SB 1151, SB 1237, SB 1409, SB 1532, SB 1564, SB 1577, SB 1578, SB 1666, SB 1667, SB 1764, SB 1800, SB 1883