

# EIGHTY-FOURTH DAY

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SUNDAY, JUNE 1, 2003

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## PROCEEDINGS

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The Senate met at 9:00 a.m. pursuant to adjournment and was called to order by Senator Lucio.

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 Presiding Officer announced that a quorum of the Senate was present.

Sister Linda Conner, Grant African Methodist Episcopal Church, Austin, offered the invocation as follows:

Now, God, our father, we thank You for this great land and for these our leaders anointed and appointed by You. We ask Your blessings on them. Father, we pray for the Governor and Lieutenant Governor and their families. Please give all these leaders wisdom, patience, compassion, and fortitude to do the job placed before them. We ask for harmony in our state and unity of purpose as we rise to be the great republic You intended us to be. We thank You for Texas, God. We thank You for this great country, and we ask for the safe return of all our military personnel. Watch over their families and restore peace to our land. And now, God, we praise You for what this great body of our Senators has achieved in this 78th legislative session and we thank You for what they are about to do in Your name. 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.

## PHYSICIAN OF THE DAY

Senator Averitt was recognized and presented Dr. Troy Fiesinger of Waco as the Physician of the Day.

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

**SENATE RESOLUTION 1037**

Senator Janek offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **HB 727**, relating to disease management programs for certain Medicaid recipients, to consider and take action on the following matter:

(1) Senate Rule 12.03(4) is suspended to permit the committee to add text to Section 32.059(e), Human Resources Code, to read as follows:

(e) The department may enter into a contract under this section with a comprehensive hemophilia diagnostic treatment center that receives funding through a maternal and child health services block grant under Section 501(a)(2), Social Security Act (42 U.S.C. Section 701), and the center shall be considered a disease management provider.

Explanation: The added text is necessary to ensure that a comprehensive hemophilia diagnostic treatment center is considered a disease management provider.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 727 ADOPTED**

Senator Janek called from the President's table the Conference Committee Report on **HB 727**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Janek, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**AT EASE**

The Presiding Officer, Senator Lucio in Chair, at 9:43 a.m. announced the Senate would stand At Ease subject to the call of the Chair.

**IN LEGISLATIVE SESSION**

Senator Bivins at 10:15 a.m. called the Senate to order as In Legislative Session.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 425 ADOPTED**

Senator West called from the President's table the Conference Committee Report on **HB 425**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 4 ADOPTED**

Senator Zaffirini called from the President's table the Conference Committee Report on **SB 4**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Zaffirini, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE JOINT RESOLUTION 68 ADOPTED**

Senator Fraser called from the President's table the Conference Committee Report on **HJR 68**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Fraser, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**SENATE RESOLUTION 1042**

Senator Averitt offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **HB 3442**, relating to certain expenditures and charges of certain governmental entities, to consider and take action on the following matters:

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

SECTION 14. IMPOSITION OF CERTAIN FEES. (a) Subchapter B, Chapter 1052, Occupations Code, is amended by adding Section 1052.0541 to read as follows:

Sec. 1052.0541. FEE INCREASE. (a) The fee for the issuance of a certificate of registration under this chapter and the fee for the renewal of a certificate of registration under this chapter is increased by \$200.

(b) Of each fee increase collected, \$50 shall be deposited in the foundation school fund and \$150 shall be deposited in the general revenue fund.

(b) Subchapter B, Chapter 1053, Occupations Code, is amended by adding Section 1053.0521 to read as follows:

Sec. 1053.0521. FEE INCREASE. (a) The fee for the issuance of a certificate of registration under this chapter and the fee for the renewal of a certificate of registration under this chapter is increased by \$200.

(b) Of each fee increase collected, \$50 shall be deposited in the foundation school fund and \$150 shall be deposited in the general revenue fund.

(c) Subchapter D, Chapter 1071, Occupations Code, is amended by adding Section 1071.1521 to read as follows:

Sec. 1071.1521. FEE INCREASE. (a) The fee for the issuance of a certificate of registration to a registered professional land surveyor under this chapter and the fee for the renewal of a certificate of registration for a registered professional land surveyor under this chapter is increased by \$200.

(b) Of each fee increase collected, \$50 shall be deposited in the foundation school fund and \$150 shall be deposited in the general revenue fund.

(c) This section does not apply to state agency employees who are employed by the state as land surveyors.

(d) Subchapter B, Chapter 1152, Occupations Code, is amended by adding Section 1152.053 to read as follows:

Sec. 1152.053. FEE INCREASE. (a) The fee for the registration of a person under this chapter and the fee for the renewal of a registration under this chapter is increased by \$200.

(b) Of each fee increase collected, \$50 shall be deposited in the foundation school fund and \$150 shall be deposited in the general revenue fund.

(e) The change in law made by this section applies only to the issuance or renewal of a certificate of registration under Chapter 1052, 1053, or 1071, Occupations Code, or the issuance or renewal of a registration under Chapter 1152, Occupations Code, on or after the effective date of this article. A certificate of registration or registration issued or renewed before the effective date of this section is governed by the law in effect on the date of the issuance or renewal, and the former law is continued in effect for that purpose.

Explanation: The added text is necessary to increase fees for landscape architects, interior designers, land surveyors, and property tax consultants by \$200, of which \$50 would be deposited in the foundation school fund and \$150 would be deposited in the general revenue fund.

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

SECTION 15. STATE AGENCY HUMAN RESOURCES STAFFING AND FUNCTIONS. (a) Subtitle B, Title 6, Government Code, is amended by adding Chapter 670 to read as follows:

CHAPTER 670. HUMAN RESOURCES STAFFING AND FUNCTIONS

Sec. 670.001. DEFINITIONS. In this chapter:

(1) "Human resources employee" does not include an employee whose primary job function is enforcement of Title VI or Title VII of the Civil Rights Act of 1964.

(2) "State agency" means a department, commission, board, office, authority, council, or other governmental entity in the executive branch of government that is created by the constitution or a statute of this state and has authority not limited to a geographical portion of the state. The term does not include a university system or institution of higher education as defined by Section 61.003, Education Code.

Sec. 670.002. HUMAN RESOURCES STAFFING FOR LARGE STATE AGENCIES. A state agency with 500 or more full-time equivalent employees shall adjust the agency's human resources staff to achieve a human resources employee-to-staff ratio of not more than one human resources employee for every 85 staff members.

Sec. 670.003. HUMAN RESOURCES STAFFING FOR MEDIUM-SIZED AND SMALL STATE AGENCIES; OUTSOURCING. (a) The State Council on Competitive Government shall determine the cost-effectiveness of consolidating the human resources functions of or contracting with private entities to perform the human resources functions of state agencies that employ fewer than 500 full-time equivalent employees.

(b) If the council determines that contracting with private entities is cost-effective, the council shall issue a request for proposals for vendors to perform the human resources functions of the agencies.

(c) The council shall determine which human resources functions are subject to the contract and which functions the agency may select to perform itself.

(d) Each agency shall pay for the contracts for human resources functions out of the agency's human resources budget.

(b) Not later than January 1, 2004, each state agency with 500 or more full-time equivalent employees shall comply with the human resources employee-to-staff ratio requirements in Section 670.002, Government Code, as added by this section.

(c) Not later than January 1, 2004, the State Council on Competitive Government shall conduct an initial feasibility study to determine the cost-effectiveness of consolidating the human resources functions of or contracting with private entities to perform human resources functions of state agencies under Section 670.003, Government Code, as added by this section.

Explanation: The added text is necessary to restrict agencies with 500 or more full-time equivalent employees from having human resources staffing that exceeds one for each 85 employees after January 1, 2004, and to allow for a feasibility study to determine the cost effectiveness of consolidating or contracting out for state agencies' human resources functions.

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

SECTION 16. AGENCY STAFFING AND PRODUCTIVITY. (a) Effective September 1, 2003, Section 651.004, Government Code, is amended by adding Subsections (c-1) and (d) to read as follows:

(c-1) A state agency in the executive branch of state government that employs more than 100 full-time equivalent employees may not, after March 31, 2004, employ more than one full-time equivalent employee in a management position for every eight full-time equivalent employees that the agency employs in nonmanagerial staff positions. This subsection expires September 1, 2005.

(d) A state agency that believes that the minimum management-to-staff ratios required by this section are inappropriate for that agency may appeal to the Legislative Budget Board. The Legislative Budget Board by rule shall adopt appeal procedures.

(b) Effective September 1, 2004, Section 651.004, Government Code, is amended by adding Subsection (c-2) to read as follows:

(c-2) A state agency in the executive branch of state government that employs more than 100 full-time equivalent employees may not, after August 31, 2005, employ more than one full-time equivalent employee in a management position for every nine full-time equivalent employees that the agency employs in nonmanagerial staff positions. This subsection expires September 1, 2006.

(c) Effective September 1, 2005, Section 651.004, Government Code, is amended by adding Subsection (c-3) to read as follows:

(c-3) A state agency in the executive branch of state government that employs more than 100 full-time equivalent employees may not, after August 31, 2006, employ more than one full-time equivalent employee in a management position for every 10 full-time equivalent employees that the agency employs in nonmanagerial staff positions. This subsection expires September 1, 2007.

(d) Effective September 1, 2006, Section 651.004, Government Code, is amended by adding Subsection (c) to read as follows:

(c) A state agency in the executive branch of state government that employs more than 100 full-time equivalent employees may not employ more than one full-time equivalent employee in a management position for every 11 full-time equivalent employees that the agency employs in nonmanagerial staff positions.

(e) A state agency in the executive branch of government shall achieve the management-to-staff ratio required by Subsection (c), Section 651.004, Government Code, as added by this section, not later than August 31, 2007.

(f) Subchapter K, Chapter 659, Government Code, is amended by adding Section 659.262 to read as follows:

Sec. 659.262. ADDITIONAL COMPENSATION FOR CERTAIN CLASSIFIED STATE EMPLOYEES. (a) In this section, "state agency" means an agency of any branch of state government that employs individuals who are classified under Chapter 654.

(b) To enhance the recruitment of competent personnel for certain classified employee positions, a state agency may provide to a state employee, at the time of the employee's hiring for a classified position, additional compensation in the form of a one-time recruitment payment not to exceed \$5,000. If the employee discontinues employment with the state agency for any reason less than three months after the date of receiving the recruitment payment, the employee shall refund to the state agency the full amount of the recruitment payment. If the employee discontinues employment with the state agency for any reason three months or longer but less than 12 months after the date of receiving the recruitment payment, the employee shall refund to the state agency an amount computed by:

(1) subtracting from 12 months the number of complete calendar months the employee worked after the date of receiving the recruitment payment;

(2) dividing the number of months computed under Subdivision (1) by 12 months; and

(3) multiplying the fraction computed under Subdivision (2) by the amount of the recruitment payment.

(c) To enhance the retention of employees who are employed in certain classified positions that are identified by the chief administrator of a state agency as essential for the state agency's operations, a state agency may enter into a deferred compensation contract with a classified employee to provide to the employee a one-time additional compensation payment not to exceed \$5,000 to be added to the employee's salary payment the month after the conclusion of the 12-month period of service under the deferred compensation contract.

(d) To be eligible to enter into a contract for deferred compensation under Subsection (c), a state employee must have already completed at least 12 months of service in a classified position.

(e) The chief administrator of a state agency shall determine whether additional compensation is necessary under this section on a case-by-case basis, considering:

(1) the criticality of the employee position in the operations of the state agency;

(2) evidence of high turnover rates among employees filling the position or an extended period during which the position is or has in the past been vacant;

(3) evidence of a shortage of employees qualified to fill the position or a shortage of qualified applicants; and

(4) other relevant factors.

(f) Before an agency provides or enters into a contract to provide additional compensation to an employee under this section, the chief administrator of the state agency must certify to the comptroller in writing the reasons why the additional compensation is necessary.

(g) Additional compensation paid to an employee under this section is specifically exempted from any limitation on salary or salary increases prescribed by this chapter.

(g) Subsection (b), Section 656.048, Government Code, is repealed.

Explanation: The added text is necessary to restrict agencies with more than 100 full-time equivalent employees from having more than one manager for every 11 non-managerial full-time equivalent employees after August 31, 2006. The added text also provides for a phase-in period between March 31, 2004, and August 31, 2006. The added test also provides for additional compensation to certain state employees in the form of a one-time recruitment or retention payment not to exceed \$5,000.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3442 ADOPTED**

Senator Averitt called from the President's table the Conference Committee Report on **HB 3442**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**(Senator Armbrister in Chair)****SENATE RESOLUTION 1039**

Senator Bivins offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rules 12.03 and 12.04 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **HB 7**, relating to making supplemental appropriations and making reductions in current appropriations, to consider and take action on the following matters:

(1) Senate Rules 12.03(1) and 12.04(2) are suspended to permit the committee to decrease the amount of the appropriation in SECTION 1 of the bill so that SECTION 1 reads as follows:

SECTION 1. HEALTH AND HUMAN SERVICES COMMISSION: MEDICAID ACUTE CARE COSTS. Out of the Economic Stabilization Fund 0599, the amount of \$406,748,606 is appropriated to the Health and Human Services Commission for use during the remainder of the state fiscal year ending August 31, 2003, for the purpose of providing services under the state Medicaid acute care program.

Explanation: It is necessary to decrease the amount of the appropriation to take into account the unexpectedly more favorable federal match rate for Medicaid.

(2) Senate Rule 12.03(2) is suspended to permit the committee to omit SECTION 1(b) of the bill which reads as follows:

(b) The money described by Subsection (a) of this section may be expended only for the purpose described by Subsection (a) of this section and only if:

(1) Medicaid expenditures exceed otherwise available revenue because of changes in caseloads or costs or because of a lower federal match rate; and

(2) the Health and Human Services Commission has used all revenue available and appropriated to the Medicaid program, including but not limited to premium credits and vendor drug rebates.

Explanation: It is necessary to omit the text to ensure that the appropriations made by the bill in relation to the state Medicaid program have the effect of increasing the availability of undedicated general revenue.

(3) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add a new SECTION 3 of the bill to read as follows:

SECTION 3. LAPSE TO UNDEDICATED GENERAL REVENUE. This section is for informational purposes only. It is the intent of the legislature that the implementation of Sections 1 and 2 of this Act increase the availability of undedicated general revenue by approximately \$127,448,606 by the end of the state fiscal year ending August 31, 2003.

Explanation: It is necessary to add the text to ensure that the appropriations made by the bill in relation to the state Medicaid program have the effect of increasing the availability of undedicated general revenue.



(4) Senate Rule 12.04(4) is suspended to permit the committee to increase the amount of the appropriation in SECTION 8(a) of the bill so that SECTION 8(a) reads as follows:

(a) Out of the Economic Stabilization Fund 0599, and in addition to other amounts appropriated for this purpose, the amount of \$516,000,000 is appropriated to the Teacher Retirement System for use during the state fiscal biennium beginning September 1, 2003, for the purpose of funding the TRS-Care retiree health insurance program.

Explanation: It is necessary to increase the amount of the appropriation to ensure the solvency of the TRS-Care retiree health insurance program.

(5) Senate Rules 12.03(3) and (4) and 12.04(5) are suspended to permit the committee to make a new appropriation by adding a new SECTION 12 of the bill to read as follows:

SECTION 12. STATE COMMISSION ON JUDICIAL CONDUCT: MISCONDUCT PROCEEDINGS. Out of the Economic Stabilization Fund 0599, the amount of \$44,000 is appropriated to the State Commission on Judicial Conduct for use during the remainder of the state fiscal year ending August 31, 2003, for purposes related to conducting misconduct proceedings.

Explanation: It is necessary to make the new appropriation to allow the State Commission on Judicial Conduct to pay costs associated with certain misconduct proceedings.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 7 ADOPTED**

Senator Bivins called from the President's table the Conference Committee Report on **HB 7**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Bivins, the Conference Committee Report was adopted by the following vote: Yeas 24, Nays 7.

Yeas: Armbrister, Averitt, Bivins, Brimer, Carona, Deuell, Duncan, Ellis, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Ratliff, Shapiro, Staples, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Barrientos, Gallegos, Hinojosa, Lucio, Madla, Shapleigh, Van de Putte.

### **SENATE RESOLUTION 1040**

Senator Bivins offered the following resolution:

BE IT RESOLVED, by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rules 12.03 and 12.04, be suspended in part as provided by Senate Rule 12.08 to enable consideration of, and action on, specific matters which may be contained in the Conference Committee Report on **HB 1**.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1 ADOPTED**

Senator Bivins called from the President's table the Conference Committee Report on **HB 1**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

Senator Fraser was recognized to ask questions of Senator Bivins.

On motion of Senator Fraser, the following questions and answers to establish legislative intent on **HB 1** were ordered reduced to writing and printed in the *Senate Journal*:

**Senator Fraser:** Chairman Bivins, it is my understanding in Article III under Texas Tech University, the budget appropriates \$874,000 for the biennium for MITC - Fredricksburg. (page III-141) Is this correct?

**Senator Bivins:** Yes.

**Senator Fraser:** Texas Tech University has established another MITC in Marble Falls as part of their Hill Country expansion. Is it the intent of the Appropriations Committee that the money appropriated for MITC - Fredricksburg should also be used to fund MITC - Marble Falls?

**Senator Bivins:** Yes.

On motion of Senator Gallegos and by unanimous consent, the following remarks regarding the Conference Committee Report on **HB 1** were ordered reduced to writing and printed in the *Senate Journal*:

**Senator Bivins:** Thank you Mr. President. Members, this is the General Appropriations Act, the Act that all of us have worked so hard on all this session. I would begin my remarks by something I said earlier to Senator Shapleigh. It is my belief that Texas enjoyed a great ride in the '90s. We had an economy that was on fire. We had tax revenues that were coming in at record rates and we were able to fund a lot of programs that we'd never been able to fund before. But in the beginning of this new millennium, we've seen an economic downturn. We've seen our tax revenues dwindle, plummet, in fact, so badly that the Comptroller has projected a record revenue shortfall for the upcoming biennium. And this budget, in my mind, successfully identifies core services that we all agree must be funded in attempts to economize by cutting costs in other areas and attempting to maximize nontax revenues. A few of the highlights of this bill, that I think are important for you to remember, in a time of record revenue shortfalls, this bill will provide \$1.3 billion of new revenue for public education. That's \$1.3 billion of new state revenue for public education. That, I think, is quite an accomplishment. The bill is \$500 million over the House, in terms of funding for higher education. The higher education funding amount is within, I think, in general, community colleges, baccalaureate schools, and health-related institutions within about three and one-half or four percent of the funding levels for this biennium. In the critically important area of health and human services, the Senate, or the Conference Committee Report works out to be about \$200 million over the House appropriations amount, after we had assumed the caseload

reductions that the House assumed, which allowed us to use about \$500 million that was not there otherwise. The bill fully funds the Frail and Elderly Program at a functional score of 24, a very high priority of Senator Zaffirini and many of you on this floor. The bill also funds the CHIP, the Children's Health Insurance Program, at an eligibility rate of 200 percent of the federal poverty level. In this bill we do not recommend or do not require the closure of a single state school or state hospital in Mental Health and Mental Retardation Department. The bill actually increases funding for highways in Texas, Senator Shapleigh, so, because we were able to draw down more federal funds for highway funding, and we do all this by reducing spending in areas that we have agreed are noncore spending areas, and focusing available dollars on those core areas. Now let me talk about the bottom line for just a minute. The all-funds number that this bill will appropriate is for the two-year biennium that begins in September of 2003, is \$117.4 billion, which is a slight increase over the current budget, mainly because of the increased federal funds that I mentioned just a moment ago. The general revenue appropriation in this bill is \$58.2 billion, which is a reduction of over 10 percent from the projected spending levels for state funds. The number we've talked about for the budget has been around 59.9. So you might logically ask, what's the difference. Did we come back with a number substantially lower than this bill as it was appropriated out of the Senate? And I will represent to you today that we did not do so. If you look at various accounting mechanisms, and you have to look at House Bill 7 and House Bill 1 together, I would submit to you that we funded \$500 million in House Bill 7 that was for TRS-Care supplement that was originally in the bill, in the general revenue appropriation that came out of the Senate. There is a deferral of \$800 million for the Foundation School Program which defers the last payment by five days into the next biennium, which will make that number appear \$800 million lower. We adopted the revised caseload estimates for Medicaid, which I mentioned just a moment ago, which freed up \$524 million. When you add all these factors into the equation, we are very close, I think within a \$100 million of the number, the GR number that we used coming out of the Senate. You each have a summary sheet on your desk that the LBB, who has done yeoman service in this project, has placed there, and I would point you to just four charts. On page 1 of that summary, at the top chart shows an all-funds pie chart that very well lays out the source, the GR, GR dedicated, federal funds, and other funds. On page 2 of their handout, in figure number 3, there is a pie chart that reflects funding by funding source, general revenue, federal funds, etcetera. Then there is a table on page 3 of the handout that is the all-funds chart which reflects the conference committee recommendation of \$117.4 billion. And finally, on page 4, there's a general revenue chart that shows how each article is affected by the general revenue appropriations. Now in talking about this process throughout the session, we all know that with \$54.1 billion in available revenue, and no prospect of a tax bill, we had to focus our efforts on finding additional revenues to fund core services. We did that in the following way. First and foremost, we all read this last week about federal funds that were coming from Washington to the State of Texas. There's basically \$604 million of unrestricted federal funds that we can use as a method of finance to help us balance this budget. We appropriated the TRS-Care solvency piece out of the Rainy Day Fund, which I just mentioned, which is \$550 million. With the TIF balances, the

Medicaid credit that we got from the Comptroller coming into this biennium, there's about \$550 million, GR dedicated funds for certification, \$400 million, total return, which we just passed the constitutional amendment for, \$275 million, the TIF extension, \$250 million, the transportation bill that Senator Ogden has on the floor today, \$138 million, sale of surplus state property, \$150 million, gas and other sales tax loopholes, that bill would raise \$50 million, the multistate lottery, \$100 million, and other revenues, \$240 million. So there're a number of revenues, nontax revenue measures that form the basis, or the method of finance for this budget. And then in the area of major reductions, I would point you in Article II to the decision to delay the implementation of Medicaid simplification. Instead of going to a 12-month eligibility, we stay at six months for two years; that will save money. We move CHIP enrollments back so that there is a waiting period to enroll in CHIP, just like any other regular health insurance program that you or I would buy in Texas. We adopted a preferred drug list, which will save, I think, about \$140 million in the Medicaid and CHIP programs, and other entitlement programs where drugs are a part in Texas. The restructuring of the health and human services benefits for Medicaid, ERS, TRS, and CHIP are all in pieces of legislation that have either passed or will pass, hopefully today, that save money. In the area of education, the Foundation School Program payment delays are an \$800 million savings that is a cost that we will not have to recognize this biennium, and I would point out, once again, it is not a loan that we have to repay. It is a one-time benefit that we can take advantage of this biennium, and continue until we're in good enough shape to decide on our own whether we want to pay it back. And, finally, the use of unexpended or unexpected local property tax values to fund public schools, basically, this would just allow the state to anticipate the property value increases that currently have been dealt with by a settle-up process so that we can get the benefit of some property value increases, about \$300 million, in our Foundation School Program in this biennium. Members, there are a host of other issues that I could talk about ad nauseam, but let me, at this time, stop and I'll be happy to attempt to answer anyone's questions on the motion to adopt the Conference Committee Report for House Bill 1.

**Senator Hinojosa:** Thank you Mr. President. Senator, I know that you all have worked very hard to put a budget together within the means of the revenue that we have available, but, as you well know, I really don't like the budget because I feel that it does a lot of damage to all Texans. One of the things that I want to ask about is public education. Did we reduce the amount of money, in terms of percentage of the whole pie, for public schools?

**Senator Bivins:** Senator, if you will look in, I think, the LBB summary chart, I was looking at this last night and I've got to find out where. I think the general revenue analysis on page 4 of the LBB summary chart, if you look at Article III, it does show a reduction in public ed. and higher ed. And I think it's fair to represent to you that that reduction has reflected more of the cuts to the Texas Education Agency than any schools. As I pointed out, in the Foundation School Program, we anticipate appropriating \$1,200,000,000 of new funds, and about \$115 million of facilities funds. And you'll be happy to know, Senator, that initially, the idea was to do just the Existing Debt Allotment, the EDA, but a decision that the conferees made was that the recommendation, actually we're going to do this in House Bill 3459, would be to do

about \$80, I think it's, sorry, no, \$95 million of EDA in the first two years of the biennium and then \$20 million of IFA in the second year of the biennium, so there will be some IFA money in there.

**Senator Hinojosa:** Well, you know, for the last 10 sessions, that I can remember, we have cut public education to the point that we shift more and more of the cost to the local property taxpayers. In the present budget, not the one we're debating right now, but in the present budget that's in place, the state pays, I think, about 46, 48 percent of total cost to public education. This budget you're proposing, House Bill 1, reduces that to about 40 percent of the total share of financing public education. How are we going to make up that difference?

**Senator Bivins:** Senator, I'm not sure if that percentage is reflective of the new state funds. Somehow, I don't think it is. Let me turn to staff real quick. I'm sorry, Senator, I don't have that answer right here, but, it's my understanding that if we had done nothing, the state's share, clearly, would have gone down, but with the billion two of new money, I think, if anything, the state share should increase.

**Senator Hinojosa:** Well I beg to differ, I think it's gone down, percentagewise. Let me give you an example. We didn't put any new money to buy and update textbooks, is that correct?

**Senator Bivins:** I'm sorry, Senator?

**Senator Hinojosa:** We are delaying the purchase of new textbooks to update the present textbooks, textbooks that we have in our school system.

**Senator Bivins:** There was proposed to be an acquisition of about \$600 million worth of textbooks in the upcoming biennium. This bill contemplates the acquisition of about \$420 million of textbooks. So, yes, there are some textbooks that will not be purchased in this biennium. The goal is to purchase, have a book in every student's hands that needs it for our accountability system.

**Senator Hinojosa:** Well, now we also reduced the amount of money, or the state's share, that we pay for health insurance for teachers under House Bill 1. Is that true?

**Senator Bivins:** I'm sorry, Senator, I was talking to other, I will pay attention only to you. Would you ask that question one more time, I'm sorry.

**Senator Hinojosa:** Thank you Senator. We had, last session we passed legislation to fund health insurance for teachers and help them apply for coverage. And we paid a thousand dollars of the share for health insurance. Now under House Bill 1, we're reducing that by half, is that correct?

**Senator Bivins:** That is correct, Senator.

**Senator Hinojosa:** And who is going to make up that difference?

**Senator Bivins:** Well what the conferees agreed in 3459 that we would do is make that reduction a one-biennium-only reduction, again, consistent with the theory that we're in tough times now, but we wanted to keep our promise when we can.

**Senator Hinojosa:** So I guess what it really means is that local folks have to pay for it.

**Senator Bivins:** If they choose to, they may, Senator.

**Senator Hinojosa:** Well the other thing that concerns me about this bill is that we do a lot of cuts in health care. Right now, we fund part of indigent health care systems throughout the state. Hidalgo County is one of the poorest counties in the state. Under House Bill 1, we're shifting, through all the cuts, about a \$174 million to the County of Hidalgo. How do we pay for that? By local, local property taxes, taxes.

**Senator Bivins:** Senator, I'm not aware of the burden put on every county in Texas. I do know that we all are under stress, financial stress, because of our shortage of revenues.

**Senator Hinojosa:** Well let me put it a different way. Statewide, are we cutting any children from enrolling in CHIP?

**Senator Bivins:** No, sir. Every eligible child will receive CHIP or Medicaid services.

**Senator Hinojosa:** Well did we change the eligibility rules?

**Senator Bivins:** The eligibility for CHIP has stayed the same. It's at 200 percent of the federal poverty level.

**Senator Hinojosa:** So you're telling me that there will be no reduction, the number of children who'll qualify under present law for enrollment in CHIP's program.

**Senator Bivins:** Senator, if they are no longer eligible, they will not be served, but the eligibility requirements are the same as we have had. People move in and out of eligibility all the time. That's one of the reasons it's so costly and time-consuming.

**Senator Hinojosa:** Well let me rephrase it then. Will there be a reduction in the number of children who qualify for CHIP?

**Senator Bivins:** I think there is a slight reduction in the number of children that qualify for CHIP, and that has to do, and Senator Zaffirini could probably help me better with this, but I think that has to do with some of the technical requirements with regard to income disregard and assets tests that we adopted, that would be a new criterion for eligibility in CHIP. If you're between, I think it's 150 percent and 200 percent of poverty.

**Senator Hinojosa:** So there is a change in the criteria for eligibility.

**Senator Bivins:** There is a slight change, Senator. That is correct.

**Senator Hinojosa:** Also are we reducing the number of women who are eligible for prenatal health care?

**Senator Bivins:** I would have to yield to Senator Zaffirini.

**Senator Zaffirini:** Will the Senator yield?

**Senator Bivins:** I'm sorry, Senator Ogden just was whispering that, yes, there is a reduction, but we're attempting, like in a lot of areas, to restore that eligibility level in our priority intent rider with regard to the federal funds, the federal matching funds that we're getting, about \$710 million, I think, for that purpose. But, I'm sorry, Senator Zaffirini, I would yield.

**Senator Zaffirini:** Thank you Mr. Chairman. Senator Hinojosa, earlier on your desk, you, someone, placed, one of the sergeants placed my latest charts, and if you look around your desk, I know you don't have much on your desk to look through, but you received the latest charts based on the Senate's priorities in Article II. And if you look through those charts, you will see exactly what the conference committee restored, relative to the selected priorities of the Senate. And, then in a different chart, we showed exactly the client impact, by program, related to our priorities and the GR dollars that were restored, above HB 1, and then all funds in millions. And in a third chart, what you will see is what was not funded in the Conference Committee Report. Now CHIP was not among our priorities because CHIP had been funded in the Senate. So the charts were based on the priorities that weren't funded when the Senate considered the bill. That's why CHIP is not on those charts.

**Senator Hinojosa:** I see.

**Senator Zaffirini:** But then the House had CHIP at a 165 percent eligibility, and I'm glad to tell you that in the Conference Committee Report, the House went with the Senate, in terms of 200 percent of the federal poverty level.

**Senator Hinojosa:** Yeah, well I'm sure it's like comparing this, is probably the lesser of two evils, so to speak. But one of my concerns is, are we losing any federal monies by the cuts we've made in health care?

**Senator Zaffirini:** Well wherever we reduced GR in a program that was a matching program for federal funds, federal funds were also reduced. However, in the area of CHIP, what was so good is that the House went with the Senate back to the 200 percent of the federal poverty level. And in House Bill 2292 they had a provision in there that would've made the six-month eligibility for CHIP permanent. And I'm delighted to tell you that the conference committee for 2292 restored the floor amendment that we had adopted in the Senate and made that temporary, because what the conference committee was trying to do was what the Senate was trying to do earlier, and that is, keep CHIP and Medicaid as parallel and as consistent as possible. So when the decision was made, by virtue of our passing Senate Bill 1522, not to go from six-month eligibility for Medicaid to 12-month eligibility continuous coverage until, initially, June of 2005, then later, September 1 of 2005. To be consistent and to be parallel, we made a similar change in CHIP. CHIP had a continuous coverage of 12-month already, so we went from 12-month back to six-month for CHIP, so that CHIP and Medicaid could be identical. Now with those changes, there will be some children who do not qualify for CHIP. But everyone who is eligible under the criteria for CHIP will receive services. The difference will be that some children and their families change, in terms of their status related to eligibility. So if they are not eligible, they will not continue to receive the services. If they are, they will.

**Senator Hinojosa:** One of the things that—I haven't served on appropriations for three sessions—we always got criticized if we left any federal funds on the table. And I guess my question is, did we leave any federal monies on the table?

**Senator Zaffirini:** Yes, we did.

**Senator Hinojosa:** And how much was that?

**Senator Zaffirini:** Well it depends on the program. You'll have to go through and look at the programs and see how much, there's no one ballpark figure that I could give you, but we did leave some federal funds on the table, because we did not have the GR available to bring down those federal funds.

**Senator Hinojosa:** Well I really would like to have, maybe staff put together, a total number as to what we left on the table, because we didn't fund some of these programs.

**Senator Zaffirini:** Well if you look at those charts, Senator, you'll get a better idea, and you will see it because we have a total for the GR and a total for the all-funds. And we tried to be as specific, really, I believe strongly in truth in advertising. I'm not going to cover anything up. And that is why we have a chart that identifies the priorities of the Senate that we could not identify. But remember, Senator, that I proposed a cigarette-user fee increase of one dollar. And I polled the Senate floor, and we could not introduce the bill in the House, but I polled the Senate in case I could attach an amendment to a bill. We did not have the votes. If we had had the votes and secured a cigarette-user tax, we would've had \$1.5 billion, and we would've funded all of these priorities. But, quite frankly, this was the most excruciating experience I have had in the 16 years of the Senate. We did not have enough money to fund our priorities. And without that available revenue, we did the best we could. And I'm here to tell you, Senator, just face to face, that the budget that you see before you, with the Article II that you see before you, is significantly better than what the Senate passed initially. And that Senate bill was significantly better than what the House had done. So we have accomplished much.

**Senator Hinojosa:** And that was due to your hard work and I appreciate that. I think I just want to make a couple of points, only because I heard Governor Perry say that, and he would, Senator Bivins, that we had the strong economy for the last 10 years. Even the Comptroller said that we went on a happy spree of spending. But when you look at the actual spending that we have in our state, when you adjust population growth, inflation, we have increased, on the average, 2.8 percent in our budget. We ranked number 50 in terms of expenditures per citizen. We ranked 48th in terms of tax effort. And this bill, in its present form, if we ran the numbers, Senator Bivins and Senator Zaffirini, it's going to cost my county \$198 million in Medicaid alone. It's going to cost Nueces County, out of Corpus Christi, \$59 million just in Medicaid cuts alone. So, of course, I'm not a happy camper. And I know you've done a good job in trying to make ends meet with what we have.

**Senator Zaffirini:** Senator Hinojosa, you're not alone. We can go district by district and make similar comparisons. But if you find those charts, and if you don't, we will get you another set, and I'll ask my staff right now to take a set over to be handed to you. But there are three charts, plus an intent rider. And if you look at chart 1 of 3, the Status of the Senate's Selected Priorities, and the Conference Committee Report for House Bill 1, Article II, in priority order. And on the last page of that chart, on page 10, you will see that clients were restored by the conference committee from the Senate version, the Senate version of House Bill 1, that number is 448,999. That is amazing, 448,999 were restored in terms of one service or another, and these are itemized there. Clients restored by the Conference Committee Report from House



Bill 1 Engrossed, as it was passed by the House, 69,353. And the dollar amount in millions restored was \$230.9 million. Again, that money brought down additional federal funds. So that, in and of itself, is significant work, Senator. And I will tell you where the greatest difference was. And that is that the Senate did not have the revenue to fund prescription drugs for the elderly, for the TANF, for people with disabilities. The Senate did not do that in our bill. And when the Senate chose to go with the Medicaid caseload predictions of the House, we then had an additional \$524 million available on the Senate side. And we use that money to provide prescription drug coverage for 208,743 elderly and persons with disabilities. And in addition to that, to restore prescription drug coverage for 140,149 TANF families, and that's where we used that money. We used it there and elsewhere. That's where we made a difference. Now to be perfectly frank with you, Senator Hinojosa, when I first developed the list of priorities that was later adopted by the Senate Finance Committee workgroup, as amended, and later adopted by the Senate Finance Committee, as amended, and later adopted by the Conference Committee workgroup, as amended with the House, CHIP was number 15 on my list of priorities, on the initial list. But because CHIP was the number one priority of the Lieutenant Governor and of the Senate, we funded that before going to the other priorities. And that is how we were able to maintain the federal poverty level of 200 percent, because we funded it before we addressed all of these other priorities. But if you look at the list, it's, frankly, unbelievable that we were able to restore as much as we did.

**Senator Hinojosa:** Senator Zaffirini, I know that the budget came out much, much better improved, out of the conference committee meetings, due to the hard work by all Members, but especially you in health care. But as a citizen of the state, I get concerned. I get concerned because we spend more money, per day, on a prisoner in the criminal justice system, to lock him up, than we do in terms of general services to a citizen. And that's hard for me to accept and deal with, in terms of how rich we are as a state, and we are not looking on a long-term basis. We're being very shortsighted, and I'm not talking about us here in the Senate, but certainly, sometimes we need to look in terms of what do we expect in the future. This piece of legislation, House Bill 1, is going to cost us millions of dollars because we're not taking care of preventive health. We're not taking care of teaching our, keeping our kids in school. Where the cuts are so drastic in many areas, that I don't see how I can go home and tell them that we did a good job, in terms of appropriations. Yes, we softened some of the blows, because of hard work in health care, but still, some of the cuts that are being made are going to cost us three times as much than what it would cost us now if we took care of it now.

**Senator Zaffirini:** But, Senator, we had to deal with the available revenue. And the Senate took a bold stand under the leadership of the Lieutenant Governor in identifying \$6 billion in nontax available revenue. We succeeded in some of the areas, but not in all, so we did not have the revenue that we needed to fund all the priorities for the State of Texas. Now I frankly intend to vote for this budget, and I will vote for this budget. And I believe that it is significantly improved, especially in strong areas such as Article II. But do I wish we had had more money? Absolutely.

**Senator Hinojosa:** Well I just want to make sure that when my counties get their debt bills from the cuts that we made up here, and they go bankrupt, that we'll be ready to come back.

**Senator Zaffirini:** Right.

**Senator Hinojosa:** And find a way to bail them out.

**Senator Zaffirini:** Senator, if you look at it, it's not just about general revenue. A lot of the changes that we made focused on restructuring. For example, I know that you recall that when the Senate passed the bill initially, we were most concerned about persons with disabilities not receiving all of the services that they had. The Senate version started with a functional need score of 29 for persons with disabilities who receive services. Current services are provided for persons with a functional need score of 24. The Senate lowered the 29 number to 26 when we passed the bill. The House was at 29. In conference committee, after we went with the House's Medicaid caseload projections, we used some of that money and additional money made available to our committee by Governor Dewhurst, another \$125 million, we restored the functional need score to 24. So that would be at current services. But we couldn't afford status quo, so what we did is single out priority one clients to make sure that they received all the services that they are currently receiving, directed the agency to redevelop their assessment tool, and now what we're going to do is reassess every client, and some of the hours will have to be reduced up to 15 percent. So our priorities for the future include restoring the reduced hours for persons with disabilities who need assistance. But the other thing that we did, Senator, in addition to the money that we appropriated and that we hope will be approved today, is that we provided a rider of intent for the federal funds money that were announced last week. And so we have a rider of intent saying that our priorities for those federal funds include restoring the provider rates that were reduced, restoring the hours that were reduced for persons with disabilities, and, beyond that, listing programs in bill pattern order so that they, too, can be restored. And I am very confident, Senator, that those will be funded.

**Senator Hinojosa:** Senator Zaffirini, you remember, you recall, many times we looked at the studies that are made concerning health care. For every dollar we invest, we save three in the future.

**Senator Zaffirini:** Yes.

**Senator Hinojosa:** What's going to happen now is that for every dollar we reduce health care, it's going to cost three times as much in the future. And I'll let somebody ask questions. Thank you very much.

**Senator Zaffirini:** OK, thank you so much, Senator. Thank you Senator Bivins.

**Senator Bivins:** Thank you Senator Zaffirini.

**Senator Wentworth:** Senator Zaffirini, I heard you say that you had polled the floor and there were not the votes here. My recollection on your report to me was that there were 17 votes in favor of the tax and 19 votes in favor of a referendum on the tax.

**Senator Zaffirini:** That was at one point, Senator. At one point, my initial poll was 17 in favor of the cigarette-user fee and 19 in favor of a referendum. But times change, people change, situations change as we have learned this session. And, so the day that we considered amendments to House Bill 2292, I had those two amendments, they were Amendments 31 and 32, and withdrew them because I realized I did not have the votes. Then Senator Gallegos took those two amendments, whited out my name, added his, and proposed the same two amendments. And as you recall, those two went down. So I knew that at that point in time, I no longer had the votes.

**Senator Wentworth:** They went down, Senator, on a voice vote. There was no record vote on that, and I want the record to reflect that I did not change. I was one of your 17 and I remain there.

**Senator Zaffirini:** Correct. Now, Senator Wentworth, I want you to know that that is still at the top of my agenda, and that I will continue to promote a cigarette-user fee of one dollar per pack. And I look forward to working with you.

**Senator Wentworth:** Mine, too.

**Senator Zaffirini:** Thank you.

**Senator Wentworth:** Thank you.

**Senator Fraser:** Senator, if I could, I'd like to make a clarification, and I would reference you to page III-141 in the bill.

**Senator Bivins:** All right.

**Senator Fraser:** And I can tell you the reference on it, it has to do with Texas Tech Strategy C.3.2, having to do with the MITC. It says Fredericksburg, and there is an appropriation of \$437,500 per year of the biennium. And I believe the intention was that the word would not have been Fredericksburg. The issue is that there's two MITCs in the Hill Country that have common administration. There's one in Fredericksburg and one in Marble Falls, they're both in my district. They have a common administration, and they're operated together. The word here says Fredericksburg, and we were going to clarify that the intention was to put in Hill Country instead of Fredericksburg. And I would ask clarification that it is your intent that the money being appropriated is for the MITCs, for the common of both Fredericksburg and Marble Falls. Is that in your intent?

**Senator Bivins:** It is my intent, Senator.

**Senator Fraser:** Thank you.

**Senator Shapiro:** Thank you very much. Chairman Bivins, obviously, my question's going to kind of be related to education.

**Senator Bivins:** OK.

**Senator Shapiro:** I'm really trying to look for some legislative intent. I think I know what the answer is, but I prefer not wondering and making absolutely clear that when we determined that we were going to give each student, per WADA, \$110 that there is not anything in that decision that is relevant to Chapter 41 districts that separates them from any of the others. Now let me be clear as to what my question is, because there

seems to be some discrepancy in this. Chapter 41 districts, as you well know, do not receive funds from the state, other than the distribution of the Available School Fund and, of course, that's required by the constitution on a per capita basis.

**Senator Bivins:** Right.

**Senator Shapiro:** Given the fluctuation in the value of the Permanent School Fund, and the textbook purchases, the money that's available in the Available School Fund changes from year to year. And I want to ensure that your intent for Chapter 41 districts who receive the ASF distribution, to which they are entitled under the constitution, plus the \$110 WADA that the budget allocates for fiscal years 2004-2005 does not change their distribution.

**Senator Bivins:** Right, I was just checking with staff to be sure that I can agree with your question, and the answer is, there is the ASF issue and that money is counted first, and after that, then the guarantee of the WADA distribution would afford to all school districts.

**Senator Shapiro:** But will the ASF amount that goes to Chapter 41 districts diminish because of the \$110 WADA?

**Senator Bivins:** It should not, no, ma'am.

**Senator Shapiro:** OK, so your intent, your legislative intent is the ASF stays the way it is, per capita.

**Senator Bivins:** Right.

**Senator Shapiro:** It is not diminished in any way by the \$110 WADA that goes across for this new money.

**Senator Bivins:** That's correct, Senator.

**Senator Shapiro:** Excellent. Thank you very much.

**Senator Barrientos:** Senator Bivins, I am looking at, I suppose this was passed out by Senator Zaffirini?

**Senator Bivins:** Right.

**Senator Barrientos:** The side-by-side. Do you have that handy?

**Senator Bivins:** I do.

**Senator Barrientos:** This shows a document which states clients restored by the conference committee, and it's got 17,000 there and then 53,000, and the next page, clients restored, so forth, then partial restoration, clients restored. What I want to know, Senator, is what was not restored.

**Senator Bivins:** Well I'm sorry, Senator Zaffirini prepared this chart and she would probably be better prepared to answer than me, and I apologize, and I notice that now she's in a conversation with a highly privileged person. And if you had another question, maybe we can come back to her in a minute, and I'd be happy to answer any other questions you might have for me.

**Senator Barrientos:** OK, maybe you can answer this. It says clients restored.

**Senator Bivins:** Right.

**Senator Barrientos:** To begin with, we started as one of the measliest states in the Union on how we treat the infirm, the elderly, mental health, mental retardation, etcetera. But the word restored in all of this makes it appear to the media, to the general public that we're OK. We fixed everything. We've restored. Am I barking up the wrong tree, Senator?

**Senator Bivins:** No, sir. I think that you are accurately identifying the overall problem, which is we're in rough, rough times. And thanks to Senator Zaffirini's work, really, almost single-handedly, she got the agencies before we came off the Senate floor with our bill, and then out of conference committee to work to reprioritize expenditures so that some of these clients that are listed on her list in priority order, that may not have received services, for example, in that first page, those clients, there are 17,000, evidently, in the Senate bill that would not have received services, and 53,700 in the House bill that now will receive services, because of the actions of the conference committee.

**Senator Barrientos:** Well I know you have worked very, very hard. I was there all the way along, from the second week in January until today, Senator Bivins, and I applaud you for that very hard work. It just concerns me greatly that a very clear picture should go forth to the people of Texas on the money that we have and do not have, and the services that we provide and will not provide, in the number of state employees that we're going to lay off, or the ones we're going to keep, in what the individuals have to pay out of their pockets for co-pays, etcetera, etcetera, that we send out a clear message here, and don't wear out our shoulders by patting ourselves on the back.

**Senator Bivins:** Yes, sir, thank you.

**Senator Staples:** Chairman Bivins, I certainly appreciate all your efforts and Senator Zaffirini and the entire conference committee and the entire Legislature. I know we've all wanted to make the most of what we had to do with on these limited means. I want to go back to the area of public education one more time.

**Senator Bivins:** All right.

**Senator Staples:** The enrollment growth is fully funded, and that is outside of the additional \$110 per WADA, is that correct?

**Senator Bivins:** Yes, sir, that is correct.

**Senator Staples:** So we met our funding formulas and what we're doing with the \$110 per WADA is new money of about \$1.2 billion that goes into the system.

**Senator Bivins:** That's correct, Senator.

**Senator Staples:** And while we were able to maintain some of the pass-through for teacher, the health care benefits, we certainly weren't able to do it all, and I know that was part of the entire budget process. But what I'm going to, the money that is flowing through, based on the \$110 per WADA is unrestricted funds.

**Senator Bivins:** That's correct, Senator.

**Senator Staples:** So if a school district, if the funding formulas met the school district's needs for enrollment growth and the other changes that they have in spending structures, then this \$110 is new money and there's nothing that would prohibit a school district from attributing a portion of that new money to meet that need for teacher health care, if their internal structure would allow that.

**Senator Bivins:** That's correct, Senator.

**Senator Staples:** OK, well I just think that's an important concept, in that we are placing the 1.2 billion in new dollars, although that is not directed to be spent on that issue, that possibility is there and we left that flexibility open to meet the needs of the smallest schools to the largest schools in the state.

**Senator Bivins:** That's correct, Senator.

**Senator Lucio:** Thank you Mr. Chairman. Members, I rise today to thank Lieutenant Governor Dewhurst, Chairman Bivins, and Vice-chair Zaffirini for all the work they've done on this particular bill, and the Members of the Finance Committee. This is my eighth budget, Chairman Bivins, that I've been involved with since 1987. And, you know, I, very different situation that we've been in that we have here than from years past. Shifting the burden for state services to local communities, especially mine, where you have the lowest per capita income in the state and the highest unemployment in the state, it certainly worries me quite a bit. I know you did your best with all that you could do with what you had. In fact, you did better, according to Senator Zaffirini. You lessened the severe cuts that were originally proposed by the House, and for this I am grateful to each one of you. For I have, arguably, the poorest district, as I mentioned, in Texas, and my constituents will be impacted most by these cuts, and that really concerns me. But, Members, let's not, as Senator Barrientos said, let's not congratulate and rush over to pat each other on the back, because this budget, really, does not reflect where we've been in the past and where we should be in the future. I cannot overlook how many children will not be eligible for health insurance and how many senior citizens will not receive the care they deserve. That's a major, major concern for me, because as I've mentioned many times, being pro-life doesn't end right there, Senator. It means that we have to take care of them after they're born as well, and not turn our backs on them. None of us have those exact figures. I don't know how many people will be impacted. I walked over to talk to Senator Zaffirini's staff to see if I could have a breakdown of districts, senatorial districts, in terms of the impacts that we're going to see in our districts on health care, especially. And only time will tell, quite frankly, how that works out. But even if one child, and you'll agree with me, and only one senior citizen, Senator, even if there's one child and one senior citizen that we cannot serve, I think we fail. Our President, George W. Bush, signed into law last year, and I quote, Leave No Child Behind Act, an historic piece of legislation written to ensure that we educate every child in America. But have we accomplished that with this budget? Those are the questions that I ask. Have we, in this budget, Senator, made sure that we look forward to establishing and constructing the school facilities that our children need, so they can have an environment that they will be able to learn in and be comfortable in? I learned yesterday that Comptroller Strayhorn has closed the enrollment for the Texas Tomorrow Fund because of the uncertainty of Texas' ability to honor future contracts. I don't know, Members, only

time will tell. We have heard so much about how much government has grown over the last decade, and it has, and how much taxes are overburdening our taxpayers. Members, did you know that we have not raised sales taxes since the 71st Legislature back in 1989? Even then, it was only a mere quarter of a cent. The last time we raised the franchise tax was the 72nd legislative session. We really have not had any tax increases, to speak of, for the last 12 years. In fact, just a few sessions ago, you know, that we actually gave back a few million dollars to the property owners of our state. I was part of that, and I voted for that. Times were good. During that same period of time, from 1990 to 2000, the population increased by more than four million Texans. With the largest increases in population occurring along the Texas-Mexico border, Senator Bivins. Yet, we had no tax increases. In fact, we gave billions of dollars back. So, basically, the wonderful economy of the 1990s carried us at that time, not the tax increases. We were able to fund colleges, provide insurance for Texas' children, and raise our teachers' salaries, plus, enact a host of other programs that affect all Texans. But, now the bubble has burst. Do we go back to those people that we gave billions in property tax relief, and say, hey, times are tough now, can you help us till we get back on better times, or back to better times? Of course, the question's no, I mean, the answer's no. We just tighten our belts and prioritize the needs of the most vulnerable and needy of our citizens. And I happen to represent so many of those. Unfortunately, we must cut back on all the progress we made in the '90s. I am not going home and brag about this budget, Senator. I can't, because, honestly, there's not much to brag about. Not that any one of us cares about polls, what polls say, but poll after poll said that Texans supported tax increase on cigarettes, which was mentioned a little while ago. One that would have brought in over a billion dollars that could have been used to ensure that all the children of Texas have access to affordable health care, or all Texan students access to a college education in NextStep. That would have ensured that all our senior citizens that had paid taxes in their entire lives would have some kind of security in their golden years. But that has not happened. But we did not even give it a strong consideration, unfortunately, and that's what really concerns me. Now poll after poll showed that the people of Texas, our constituents, Members, supported closing a loophole that allowed Texas companies to get around paying their fair share of the franchise tax. We didn't even talk about that. Closing this loophole would have brought in hundreds of millions of dollars, yet it is not even given any serious consideration. I hope that this Legislature can ask the leadership to do something about that between now and next session, to look at equity and how companies pay taxes in this state, compared to other states. I have read with the passing, that with passing of this budget, Senator, almost 10,000 state employees would lose their jobs. And I ask, what about them, Senator Barrientos? In fact, during the '90s, when some state agencies experienced a turnover rate well over 20 percent, those employees stayed. Many stayed even when the computer industry was luring people with higher salaries and fancy buildings. Why did they decide to stay with government, was what I asked myself. What an opportunity to make more money. Why? Because they had the same desire that we have in this room, to be public servants and to make a difference in the lives of Texans that they serve, that we serve together. These employees are the backbone of the state. Without them, we could not do our jobs, not at all. Some stayed because of job security and great benefits, but almost none stayed

because of their salary. How are we rewarding this loyalty today by telling almost 10,000 of them, Senator, sorry, but you cannot stay any longer. We don't need you. I would like to ask the directors of every state agency to look at every possible angle before you let go even one of these state employees. I read with interest, Senator Bivins, recently about 3,000 school teachers in Portland, Oregon, whose district was faced with the same dilemma we are facing today, a shortage in revenue. There was talk about cutting positions and programs in the district to meet the shortfall. The teachers union took a bold step, and, I mean, truly bold; they voted to take a 10-day, unpaid workdays a year off. Ten days without being paid. By this action, the school district was able to avert any layoffs, reduction of programs, cuts in insurance to the employees, and they even got a one percent pay raise. It all sounds too good to be true, but they're doing it somewhere in the country. So I'm asking that every state director, every agency director to look at what they're doing in Oregon and other parts of the state and any other ways to divert layoffs. The daily state payroll, excluding higher education, is about \$35 million, I'm told. If every state employee in Texas took 10 unpaid days of vacation a year, perhaps one day a month, it would save the state almost \$350 million a year. Cutting 10,000 jobs with an average salary of \$32,000 a year in benefits would total about \$350 million a year, Senator Bivins. I know it's not that simple. I'm just asking that we have some compassion for those loyal state employees that stuck with us during the good times and who are working hard with us during the worst of times, today. But it's more than just people having a job. They actually provide services to our citizens and they are a big part of our communities that they live in. They pay taxes. They shop in stores, put their kids through school, take care of their elderly, all while working to provide their fellow citizens with needed services. I understand that one state agency's already doing this, and I'm glad to hear that, asking their employees to take one day a month off to meet their projected cuts in their budget next year. I hope others do the same, Senator. Yes, Members, this budget can conceivably meet a projected \$10 billion shortfall with no new taxes. But at what price, and at what cost to human lives, and what will it cost us in the long run, as Senator Hinojosa mentioned a moment ago. We kept the promise made by some of last year's elections, electioneers, and those running for office: no new taxes. We kept that promise, and we're going to keep it here today. Most of these cuts are not only going to affect the less fortunate, but what happens when we come back in less than two years and face the same problem. Are we going to make more drastic cuts to meet the no new taxes pledge? I promise, Members, that it will start to hit all areas of the state, not just the Valley. Perhaps it is time to go to annual budget sessions to avert what happened this session, the math scrambled to make ends meet. I will be back next session, Senator, and I hope that I can file a, and I plan to file legislation. I hope we can work at proposing annual budget sessions where we can maximize federal dollars. I also plan to be back next session to fight to restore the cuts that we are making today. By the grace of God and with the efforts of a lot of hardworking Texans, perhaps we will be in a more recovered shape financially, and we can put the word compassion back into our budget. Let me tell you, as far as I'm concerned, Senators, the greatest thing that's happened this year in this session, is you, is Senator Ellis. That's the greatest thing that's happened, because we've got three new lives in the making here. And nothing's greater than a human life. And I



want to tell you that if they fall, you've got to pick them up, you must help them, pick them up, because they're totally dependent on us. If they're hungry, we need to feed them. If they're ill, we need to make sure they get the medical attention they need, no matter who they are, or where they live in our state. We must educate them. We must continue to build bridges of opportunities like never before. They're dependent on us to make the right decisions here today. And I think this budget's going to go forward and we're going to try to live within our means, and some people will prosper and others will struggle. The people that live in my district, that happen to be poor, might not want it that way, but it happened, and they are. And they look to me for the decision-making that I'm going to be involved with to be able to see if they can have a brighter day. But make no mistake that we do not want to be at the mercy of anyone. We would prefer to live on our feet than die on our knees. We're going to continue to work with the leadership of this state. With you, Senator Bivins, who has done a wonderful job as Finance Chairman, doing what you can best with what's available there. But let's not revert our thinking when we talk about, you know, making sure that no one is left behind, and seeing this happen through a budget like this, because, quite frankly, there's nothing here that we can do, except pray and hope for the best that there won't be as much suffering as we think there will be. No one in our state should have to die because he or she cannot afford to live, and that's my concern. Thank you.

**Senator Bivins:** Thank you Senator Lucio.

**Senator Shapleigh:** Thank you Mr. President. First, to you, Senator Bivins, you took a tough assignment. You've had some tough ones before in education and the many programs in which you made tough decisions, but this one is the mother of all tough decisions. And to those who served on the Finance Committee, I learned a lot about my fellow Senators, and it was a pleasure to do that work, as hard as it was, because what shone through was leadership in nearly every subcommittee in trying to solve these issues. To Senator Zaffirini, for your tireless efforts to put money back in this budget and put people back into health care in the State of Texas. With this budget, we mark the passage in Texas from compassionate conservatism to just plain old mean spirit. We faced a choice at the beginning of this session, that every state, every community faced. We had a September 11th event that affected, disproportionately, sales taxes, we had an economy that affected another bundle of taxes, and we had declining revenues. Yet every Governor and every Mayor faced it with a combination of common sense, savings through administration, efficiencies, cuts to certain programs that were nonessential, and revenues. Frankly, every other state made the choice to go raise revenues and put them in this budget, and I'm not talking, Senator Whitmire, about the chain gang revenues. In New York, the Legislature there had a Governor who said, no new taxes, and they overrode his veto 121 times when they put money into the budget to cover central programs in children's health insurance, Medicaid, and education. That was their choice. Governor Ratliff told us when this bill came through here that this bill, this budget, was not worthy of Texas. And he said it, I believe, for important reasons, Members. When we came here in January, Texas was last in the country in what it put in its own citizens. We were 50th in state spending per capita. What that means is in communities like Eddie Lucio's, where a school district has \$20,000 per pupil property wealth, and we transfer \$170 million of

state-funded obligations to the local level, there will be tax increases. When we came here and said, the leadership said, no new taxes, what they didn't say is, we guarantee taxes at the local level. The first casualty of this process has been truth. Because as we come here and make the pledge to Texans at this state government level, no new taxes, in fact, we violate that the minute we get home in September and deal with schools, public school budgets, and community hospital budgets that are going to transfer millions of dollars of cost to those budgets, Senator West, that your public school in Dallas is going to have to deal with, just to fund teachers the way we fund them now, \$170 million. And when we came here, and we had three and four children that got no mental health services in the State of Texas, didn't have a slot for them, wasn't a place to go get a service, and we told them, the place for you, increasingly, is jail, because in the juvenile justice system, you might get a slot. And thousands of Texas mothers are making the choice to falsify an affidavit and put that child into a juvenile justice slot just to get some mental health services. We have done nothing with respect to that issue, Senator. Texas is number 37 in what it spends on education, number 47 on mental health, number 45 on public health, number 45 in the country on the number of high school students who complete high school, dead last in the country in the number of our Texans that are insured with health insurance. What happened to that Texas? What did we do with respect to those issues? That's why Senator Ratliff said this budget is not worthy of Texas, because we didn't make the investments in Texans so that Texans can lead productive, prosperous lives into the future. Other states made that choice. A cigarette tax is not a radical proposition. Seventy percent of Texans said, let's do it. When the Governor went to Dallas County and talked to ordinary folks about how these were tough times, and Texas faced budget issues, and when the press left, Mrs. Bradley dealt with the issue with common sense. Of course we ought to raise some new revenues. Of course we ought to put some money in the budget. Of course we ought to take care of elderly Texans. Of course we ought to do what's right in CHIP and keep it going and not have 169,000 kids lose CHIP services, which is exactly what's going to happen between now and 2005. That's common sense. That's Texas. That's the way we ought to have thought about this budget. Instead, Members, what will happen in Texas under this budget is 169,000 children in the CHIP program will no longer be covered in 2005, as a result of higher premiums, lost coverage for dental, mental health services, other optional services, and not renewing. When it came to trying to decide what to do in Medicaid cases, there was another casualty: the truth. Because the way we dealt with Medicaid cases is we just said, 500,000 cases disappear. We're going to accept a new caseload projection, different from the one we heard in January from Albert Hawkins about how many Medicaid patients we would have in 2005, and just said, poof, they go away. So 500,000 folks, Texans, a projected caseload of 2.9 million went away in a decision that took 10 seconds. Is that how we deal with budget issues in the State of Texas? Three thousand kids won't qualify for CHIP or Medicaid, for direct primary services with respect to TDH. One hundred thousand clients will experience a 15 percent cut in the number of hours of service allowed for community care for the elderly and disabled. Eight thousand three hundred fewer women per month will receive Medicaid maternity benefits. Teacher and retired teacher health insurance coverage, when this hits the school districts of Texas, hold on, because what we're

doing is they will lose \$500 of the stipend for insurance costs, and retired teachers will pay 33 percent of health care costs that they don't pay today. And school districts will have shifted to them \$170 million of costs that they're not paying now. A guaranteed tax increase in the local communities across the State of Texas. Over 168 million fewer state dollars than what was spent in 2002-2003 to state higher education institutions. Members, when we look at what happened in this session, what will be remembered is that a handful of extremists hijacked state government, the state budget, and the future of Texas, in issue after issue, but nowhere more evident than in the budget. To say we will not raise taxes, one dollar on a pack of cigarettes to avoid catastrophic cuts to kids, the elderly, shifts to school districts, and cuts to retired teachers just does not make common sense. If we left this to a referendum of Texans, Senator Zaffirini, I feel confident they'd make the right choice. Why can we here not make the right choice? What has happened in this building, where extremists take a position contrary to 70 percent of what Texans say on the street? When we look back at what is happening in that part of the state that I represent, that Eddie represents, Senator Hinojosa, this budget will cause a recession in Hispanic Texas. When we take the reimbursement cuts, when we shift to the local school districts and, especially, the hospitals, when we take the thousands of children that won't get CHIP coverage after this, the Border of Texas will be in a recession after what we've done here. This bill disproportionately affects Hispanic Texas. This bill takes Texas back a decade in the progress that we've made. And most importantly, this bill denies the investment so essential to the future of Texas in public education, to the education of our kids. When we look at the real issues of Texas, 50 percent of Hispanic children dropping out of school, not going through the process, not getting educated, Senator Nelson, who's going to pay the pensions of those that you're worried about when we talk about, are we thinking about the taxpayers in this? Who will pay those pensions if our children are not educated? What will happen in the future of Texas if we don't have healthy kids going to school because we have the worst immunization rates in the country? Members, those are the fundamental issues we didn't deal with this session, and the issues this budget didn't deal with. In February, we all traipsed down to San Antonio and had a big festival, a big gathering for the Toyota plant. Who's going to be the workforce for that plant 10 years in the future, when those kids aren't educated and we don't have skills invested in workers in a knowledge economy? Who'll work those plants? When the Governor takes his Enterprise Fund, \$295 million, we didn't fund medical centers in the line item, we left those to this Enterprise Fund, and he looks for companies to come here, the first question they're going to ask, Senator Bivins, is what about your workforce? We spend less money than any state our size, many multiples, in adult education. When he takes a look at what's happening in the public schools, in terms of kids graduating, and kids hitting the mark, companies are going to ask, who's going to do our work? When will our state make the basic investment in human beings that we need to make to drive the prosperity of this state in education, health, workforce, and infrastructure? It didn't happen this session. When will it happen? Now you say, Senator, I'm a political realist. We've got a choice and that choice was no new taxes, and we dealt with a \$10 billion budget deficit the best we could. Well we do have a choice. Senator Ratliff laid it out. We can stay here till August, we can stay here till December to do what's right for the State of Texas,

Senator Bivins, if that means investment in the future of Texas. When we made the choice not to do that, future generations will ask the question why, why did we pass a budget that was not worthy of Texas?

**Senator Odgen:** Mr. President and Members. There's been a pattern for the last hour, where we thank Senator Bivins for his hard work and then spend 30 minutes telling how sorry the budget is. I have a little different perspective. I appreciate Senator Shapleigh's passion. I think I appreciate his points. I'm not sure I agree with his rhetoric, however. It is true that in this budget, which is slightly more than what we appropriated in all-funds two years ago, that we're actually spending more money on health and human services than two years ago, isn't that right, Senator Bivins? Not less, but more, and so, the argument on this floor, which we've addressed, is that it's not enough of an increase to be worthy of Texas. But I think it's an extraordinary effort on the part of this Legislature considering the fact that the Comptroller said we had a \$9 billion deficit, to find in our hearts, and in our appropriations bill, more money than we actually spent two years ago. Now when I give graduation speeches, Senator Shapleigh, there is a line in there that I talk about to remind people of why we form governments, why Texas is the way it is. And I say, you know, the unprecedented freedom that you enjoy today was not to guarantee your security, but to give you opportunity. This state has always been about giving people opportunity. And I don't think anyone can honestly say that in this budget we deny people the opportunity to improve themselves. Senator Bivins pointed out that in public education spending, in spite of a \$9 billion deficit, we're actually spending \$1.2 billion more on public education. And there is nothing in this state that I can think of that the government does to create opportunity for its citizens than public education. And this Legislature, and your budget, and my budget, and Senator Shapleigh's budget, if he votes for it, makes that commitment. In the area of higher education, in the area of education for our medical schools, the cuts are modest. Higher education will continue to be able to provide opportunity for Texans who want to take advantage of it. And because of the efforts of Senator Wentworth and Senator West and Senator Ellis and others we actually increased the TEXAS Grant program by \$100 million over last biennium. We are up \$100 million. Last biennium, we spent \$263 million on TEXAS Grants, and in order to earn a TEXAS Grant, what you've got to do is you've got to graduate under the recommended curriculum in Texas. You've got to maintain a 2.5 average in college. You've got to take 12 hours. And if you do that, the State of Texas will pay for you to go to college. And we added \$100 million to that program. This budget continues the promise of Texas that we will give you an opportunity to improve yourself. And I think that we can spend all day talking about the glass being half full or half empty, but this budget was an extraordinary effort to meet the basic needs of Texas. I cannot find any place in this budget where a Texan can stand up and say, I cannot have the opportunity that I ought to have to reach my dreams and pursue my goals. And as a result of that, considering the constraints that we were under, this is a good budget. I'm proud of the work you did. I'm proud of the opportunity that it guarantees Texans. And I'm also proud of the fact that it understands that a Texas economy doesn't come out of recession because of more government spending. The way you can eliminate a recession in South Texas or East Texas or West Texas is not more government spending. It's more economic growth, private sector economic

growth. And the problem with the complaint of those who complain about the budget is that the offsetting entry in that budget ledger is higher taxes. Higher taxes will not increase economic growth in Texas. It will not create more opportunity for Texans if we take more of their money to spend on government. And so this budget, I think, has made an honest effort to balance and take care of the legitimate needs of Texas without slowing down the economic recovery that's inevitably going to come in our great state. This budget still guarantees its citizens opportunity, and, Senator, I'm proud to stand up and say, I am for this budget. This is a good budget and you did a heck of a job.

**Senator Bivins:** Thank you Senator. Your remarks were refreshing.

**Senator Barrientos:** Thank you Mr. President. Senator Zaffirini, I think that you probably could answer this question, because it's a critical facet of this budget we're speaking about. And we're talking about children. You've heard the statements by our colleague from El Paso, Senator Shapleigh, about Texas having the most people without health insurance, not in the South, or the Southwest, but the whole country. Let's talk about the kids. Years ago, we had no health insurance available to most of them, then we implemented the CHIP program. Under this budget, exactly what are we talking about? And I don't want to hear restoration, I just want to hear cold, hard numbers. Give us a little walk-through.

**Senator Zaffirini:** Specifically related to the CHIP program?

**Senator Barrientos:** Yes, ma'am.

**Senator Zaffirini:** Well as I mentioned earlier, I don't have the CHIP program detailed in my charts, because the Senate had funded CHIP when we passed the bill. However, I do have in my documents, and if you'll just give me a moment to pull out the right document from the Health and Human Services Commission. The Health and Human Services Commission sent me a report in a summary written by the staff, but sent to me by Commissioner Albert Hawkins, and it's in Article II overview of House Bill 1. And, basically, related to CHIP and related to other reductions, he includes these figures. CHIP caseloads are reduced by approximately 122,000 clients in fiscal year '04 and 161,000 clients in fiscal year '05, due to CHIP policy changes.

**Senator Barrientos:** Excuse me. Those were reductions? Could you state that again?

**Senator Zaffirini:** I'm reading from the document sent to me by Commissioner Albert Hawkins. CHIP caseloads are reduced by approximately 122,000 clients in fiscal year '04 and 161,000 clients in fiscal year '05, due to CHIP policy changes.

**Senator Barrientos:** So, basically, what that's saying, that that administrator wrote, professional person, is that over 200,000 Texas children will no longer have health insurance.

**Senator Zaffirini:** Well they're not cumulative figures. The figures are different. There may be some overlap between '04 and '05, so I wouldn't total them. But, basically, what he's saying is that those changes reflect the changes in policy, in CHIP. And those were, in some cases, changes from the policies that were adopted by the Senate when we sent the bill back to the House. For example, we maintained eligibility at 200 percent of the federal poverty level, but we reduced the continuous

coverage from 12 months to six months. And because of that change, there are many children who will no longer be eligible for CHIP. So the reason that they are losing the services is that they are no longer eligible. When you maintain the eligibility for 12 months, then the children continue to receive the coverage whether their families are eligible or not.

**Senator Barrientos:** OK.

**Senator Zaffirini:** So they will lose the services because they will no longer qualify, and in some cases, there are those who will not come back and reapply. In addition to that, the other policy that was changed in the Senate and in the House, is we have a three-month delayed enrollment. In addition to that, we have minimum benefits for children from the ages of zero to 18.

**Senator Barrientos:** Senator, excuse me for interrupting. In good old plain Texas English, and I'm not a lawyer, I'm not an attorney, are we going to cover fewer Texas children with health insurance, thousands fewer, or not?

**Senator Zaffirini:** Fewer, because of the policy changes.

**Senator Barrientos:** Thank you.

**Senator Bivins:** I just wanted to clarify something. I was not aware of the communication from Albert Hawkins, but with regard to the CHIP program in general, and the number of children that he estimated may not be served, those numbers seemed very high to me from what I had heard. I checked with staff, and they pointed out that a big, big part of that number has to do with the change in the eligibility pattern because of the 90-day waiting period that you or I, or anybody else that buys insurance in Texas has to go through, but because that's a change in the system that generates a number that is quite high. And I'm told that if we adjust for that number, and we just focus on the changes that would affect children that are eligible today, like income disregard and the assets test, that the number of those children that are currently being served, that are currently eligible, it may not be, it's more like 12,000 versus 160,000.

**Senator Zaffirini:** Well that is what I was stating to Senator Barrientos, that the difference reflects the changes in policy and exactly what you just mentioned, the delayed enrollment of three months, etcetera, and the different policy changes. But that means that those children will not qualify for CHIP. If you look at the actual number of persons who will actually lose eligibility, they are, will lose benefits, we, I have a figure of 16,010.

**Senator Bivins:** All right, thank you. That's just smaller by a factor of 10 and I just wanted to clarify that. Thank you.

**Senator Zaffirini:** Thank you Senator.

**Senator Wentworth:** Mr. President, I want to begin by saying that last year during the campaign, I think most people looked, or a lot of people did, a lot of people looked at the race for Lieutenant Governor, and on paper, they had one candidate who'd served in the House, and the Senate, and as Railroad Commissioner, and State Comptroller, knew state government as well as, maybe anybody since Bob Bullock. And on the other hand, you had a very successful businessman who had served three

years as the Land Commissioner before he announced for Lieutenant Governor. And a lot of folks, lots of folks here in Austin, particularly, went with the fellow who was the more experienced in years. And I think we have, I believe we have a unanimous Senate now, that is convinced that Texas voters did the right thing in November of last year. I am an unabashed admirer of the kind of leadership that Governor Dewhurst has exhibited for this session. His bringing us together in a very bipartisan and productive way has been a joy to participate in. Having said that, and having served as a Member of the Finance Committee myself in past sessions, although I'm not on the committee this session, I want to thank, really, truly and sincerely, from the bottom of my heart, Senator Bivins, Senator Ogden, Senator Duncan, Senator Zaffirini, and Senator Whitmire for their service. There were weekends when the rest of us got to go back home to our hometowns and be with our families that the Finance Committee was here working through the weekends. They worked late hours. And in many respects, they have done a very praiseworthy job. I don't believe that until we have the kind of fiscal situation that we have this year, we would scrub the budget like we have this year. Having said that, I am here to represent 700,000 Texans who live between San Antonio and Austin, and it's my judgment that we still have a little more work to do on this budget. We've done a lot of good in this budget, and I especially appreciate Senator Ogden's mentioning the TEXAS Grant program, but I'm concerned about some elements of it. One of those we discussed yesterday, and that was whether or not we should deregulate tuition at institutions of higher education. I don't believe we should. The Senate's position was that we incrementally increase ours in the next two years, and then totally deregulate two years from now. The House's version was that we totally deregulate immediately. And the so-called compromise was that we totally deregulate a semester from now. I understand the institutions of higher education's position. They're having to come to us to ask us to deregulate tuition, because we have failed to support them as we should have. Most of these institutions are no longer state-supported, they're really merely state-assisted, and they need the money to run their operation. And since we're not giving it to them, they'd like to charge the students. I understand that because I'm a former regent of the Texas State University System. But I will tell you that regents are not directly accountable to the voters. And education being the number one priority for Texas state government, I believe the people that set tuition ought to be directly accountable to the people of Texas. Regents are insulated and buffered by being nominated by the Governor, confirmed by the Senate, and they don't really have to answer phone calls. They never have to stand for election, and that is why I voted the way I did yesterday and part of the reason I'm opposing this budget. I served six years as a county commissioner before I ever came to the Legislature, 15 years ago. And I recall serving as a county commissioner and setting our county budget. This particular year, we were in kind of tight times, but inflation had eaten into people's income, and so we made the decision that we could raise county employee salaries somewhere, and it's been so many years ago, I don't remember the exact number, but it was somewhere around three percent or four percent for the following year. The county auditor, on the other hand, wanted to raise his employees by 10 percent. And we said, no, we're going to treat all county employees the same. That's all the money we've got, we're going to raise them three percent or four percent. The county auditor, though, is not appointed by the

commissioners court, nor is he or she elected by the people of Bexar County. And this is true in all the counties. County auditors and county purchasing agents are appointed by the sitting district judges in that county. They're not accountable, they don't have to raise the money, and so what our county auditor did was simply go to a majority of the district judges in Bexar County and got them all to sign a court order ordering us to increase salaries of his staff by 10 percent. He would not have done that, nor could he have done that had he been elected. Part of the way that we've got this budget to balance is to sell what is described as surplus state property. And in the budget it's about \$150 million. And I asked, where in the world do we have \$150 million worth of surplus property that we're going to sell? And the answer I was given was that we have facilities that we don't really need to own, that we can sell them for a significant amount of money. It's a one-time sale, and then simply lease them back from the new owner. So if we have an MHMR facility that the people of Texas own right now, free and clear, but we need money, we sell the MHMR facility and the grounds on which it's located, and then we rent back from the new owner that facility and we pay rent from now on. Now the 700,000 people I represent don't think that's a good deal. They don't believe that in the long term that's smart financial planning, and I don't either. Part of what we're doing here is going to have the effect of shifting burdens of indigent health care to county hospital districts. And we know that. It's passing the buck, and it's not fair. We can say when we left that we passed a budget that balanced and we didn't add any new taxes. And we kept the campaign promises that were made in the campaign in 2002. And I do understand the appeal and allure, some would say unprecedented position, of trying to keep campaign promises. But those campaign promises, in my judgment, have been overtaken by events of time. Those campaign promises were made, initially, at the end of '01 and the beginning of '02, when the person constitutionally charged with telling us what our income is going to be, told us that we were going to be about \$5 billion short. But by the time our elected officials took office in January of '03, the person charged with the responsibility of telling us how much money we were going to have come in or how little was going to come in, essentially said, oops, I was 100 percent off, it's really \$10 billion. It seems to me that in order to keep faith with the people to whom you made the promise that you weren't going to have any new taxes on the \$5 billion, you keep that promise. But then you say, truthfully and candidly, when I made that promise, it was \$5 billion. I didn't predict it was going to be 10. I couldn't foresee that, nor could the state official whose responsibility it is to tell us what it is. She didn't either. So we can't keep that promise in full. We'll keep it for the five, but we can't do it for the 10. But what we're winding up doing is, we're passing these costs, a significant part of them, to county hospital districts. Now, Members, counties have essentially one meaningful source of revenue, and that is property taxes. So county commissioners courts throughout the state that have county hospital districts are going to have to go to our constituents and raise their taxes. Now we'll be able to say, assuming this budget passes, we didn't raise your taxes, but, Members, indirectly, we did, by causing conditions that require them to raise county taxes. And I think it'd be more honest if we would take care of that responsibility in Austin. We're asking teachers and state employees to bear the pain of our refusal to do what Senator Zaffirini has recommended, what Senator Ratliff has recommended, what, I believe, Senator Van de Putte has recommended, I think I'm



right on that, what I have recommended, and that is a dollar a pack user fee on cigarettes is preferable to not providing the kind of support that higher education needs, that health and human services need, and I believe doing the budget right is more important than getting out of here on time or trying to keep an outdated campaign promise. We were told in the State of the State Address by Governor Perry in either late January or early February that in his campaign promise of last year, of no new taxes, that he accepted the fact that it's really not a new tax if it's a tax you should have been paying all along. And he was referring to the loophole in the franchise tax. And I agreed with him. We should have fixed that, we should have closed that loophole. I remember meeting with some, actually, future constituents at the time, because I didn't represent Hays County at the time, but I was talking with some people in Dripping Springs, and I had a married couple, a man and his wife who have a very successful business that's incorporated, and they're paying the franchise tax on an annual basis, and they asked me, they said, Senator, why is it fair that we pay the franchise tax, but Dell Computer doesn't, and SBC doesn't, and the *Austin American-Statesman* doesn't. And that's a tough question to answer. The truth of the matter is that those very large corporations have very smart CPAs and lawyers, and they realize that what we did, by the rules we put in place, is to make the franchise tax a voluntary tax. If you simply reorganize your business, in such a way that you're not required to pay the tax, you don't have to pay the tax. So I supported changing that by closing that loophole. Among other things we've done this year is to extend the telecommunications infrastructure fee for an additional 12 months. We passed it some years ago with the understanding that it would expire in a certain number of years, or when it got to \$1.5 billion, which is expected to come sometime early to mid 2004. Well we've extended it for a year, and some companies will pass that fee on to their customers, but under the rules we've set, we're not allowing other companies to pass it on. Members, that to me is fundamentally unfair. They're in competition with one another, and by the rules we're setting, we're giving an advantage to some companies and taking it away from others. We ought to fix that. In fact, 20 Members of this body, as recently as within the last 48 hours said, we think that ought to be fixed. But it's not fixed. Members, I think we can, we can do better than this budget. This budget is not a bad one, as such, I prefer to consider it a work still in progress. We can do it right, we've done so much, and we can do a little more if we just stay around for a few more days. It may be that we'll be here in June on other matters, ethics and redistricting come to mind, so my vote is not so much really a no on the budget, as it is a vote to continue our work for a few more days and further improve what we've done so far. Thank you Mr. President.

**Senator Gallegos:** Thank you Mr. President. Members, I wasn't going to say anything about Senator Ogden's remarks but, he said something about Senator Shapleigh's remarks being rhetoric. I think Senator Ogden doesn't get it about the growth in Texas, that's what we're talking about here, the growth. If we want to, if you're talking about services under this budget, and I just wanted to add this before I really start my remarks, is that if you want to talk about services, you've got to talk about all services, including the growth that the census put out this last census during the process for the census, that Texas is growing. And if we're going to allow people that are waiting in line for services that are not yet in this system, and they're still

waiting, then you're talking about this budget is fine. But we're talking about Texans that are here, that are in the process, have already done their applications, yet they're not in this system, and that's what I'm talking about. And let me just say that, Senator Bivins, that you and Members of, not only the conference committee, but Members of the Senate Finance have done a tremendous job with what you've had to work with. You spent many hours in, really, what I consider a no-win situation, and including Governor Dewhurst and yourself, Chairman Bivins, and I'd like to thank you for the efforts that you did. And when this budget first came before us, now, I said the Texas Senate was faced with tough decisions, and I still believe that that's the case. I also believe that we have certainly fallen short of what we consider a success. Yes, we did the best we could with what we had, in the term of available revenue, but we knew coming here that we were going to be in a shortfall, the exact number we didn't know, depending on who you believed, between \$5 and \$14 billion in a shortfall. And yet, I believe that we settled, and believe that the tone of many of your speeches on the budget, first when we passed it out the first time, and that showed me the same thing. I believe it's settling, and when it comes to our children's education and access to social services is a tragic decision, the effects of which we may be forced to address for many years to come as already been stated today. But I want to take a few minutes, Senator Bivins, wherever you are, to run down some of the cuts we are making, some of the needs we are leaving on the table. In Article II, on, regardless of what has been said today, reduced Medicaid community care service levels for the elderly Texans and disabled adults. Proposed funding levels for community care for the elderly and disabled will reduce the hours of support services for about 100,000 elderly or disabled Texans who now receive help to remain at home rather than a nursing home. And about 1,800 of the fiscal 2000 enrollment of 101,500 will have hours of service cut by 15 percent. In community and long-term care, we have made reductions through attrition. Community Care Medicaid Waiver enrollees are set to a specified cap reducing the number of services served by 3,452 from the current 2003 enrollment of 33,756 to a fiscal enrollment of 30,304. In-home and family support programs will be cut by 55 percent, 2003 enrollment of 4,221 clients will be reduced to 1,876 clients and cut of 2,340 clients. And state-funded, long-term care will be reduced by 2,856 clients. Non-Medicaid 2003 enrollment of 16,827 clients versus 14,000 for fiscal 2005. Medicaid maternity coverage for low-income pregnant women has been reduced. Keep in mind, Members, this is Medicaid coverage, it is for prenatal care, delivery, postpartum care for 60 days after delivery, including treatment of any medical condition that may complicate the pregnancy. The conference budget funds cover to 158 percent of the federal poverty level. If we assume that we keep that current policy, that covers women up to 185 percent of the FPL, Health and Human Services Commission projects that a total monthly average of 113,326 women would have been covered in 2005. This will reduce coverage of about 8,300 women per month. A program that gives full Medicaid benefits on a month-to-month basis to certain families with large medical bills, called the Medically Needy Spend Down program, temporary coverage for families with high medical bills, is eliminated. The conference committee eliminates the coverage entirely, leaving a monthly average of 9,959 medically needy adults with dependent children in 2005, with no health coverage whatsoever. With respect to children's Medicaid simplification, we have

maintained the assumptions about rollbacks and delays of children's Medicaid simplification that were built into the HHSC's budget request for 2004-2005. Maintaining current six-month continuous coverage rather than the phase-in of the 12-month period mandated in SB 43, in the 2001 session. Imposing stricter assets tests and reinstating mandatory face-to-face DHS application and renewal. While the new proposed budget maintains access to mail, and telephone application and renewal for most children, the Health and Human Services Commission projects that these changes would slow the growth in children's Medicaid enrollment to a very low rate. And it also estimates that these policy changes would reduce projected 2005 Medicaid enrollment by 332,198 children. Further, the conference committee adopted House budget Medicaid caseload assumptions, which was the basis for reduction in Medicaid state general revenue funding by \$524 million. Child Medicaid enrollment projected in February of this year, 2003, to grow by 17.3 percent in 2004, and 8.4 percent in 2005, is now assumed to grow by only two and one percent. Children's health insurance, CHIP, is getting some address red tape. We keep eligibility for CHIP at 200 percent of the federal poverty level, but add an asset limit to CHIP, and eliminate most income disregards. We are also going to impose a 90-day waiting period for enrollment, reduce continuous eligibility to six months from the current 12 months and require higher co-payments and premiums from clients. These changes, plus the impact of the assets test, and removal of income disregards are projected by the Health and Human Services Commission to reduce the number of children in enrollment of 169,295 below projected enrollment in 2005. For those CHIP funding levels, assume that the following benefits are eliminated: dental, durable medical equipment, wheelchairs, crutches, leg braces, prostheses, chiropractic, hearing aids, home health, hospice, mental health, physical therapy, speech therapy, substance abuse services, and vision care and eyeglasses. Medical provider rates are cut, most medical providers will have cut rates by five percent with nursing homes and other long-term care providers cut by a lower amount. For doctors, the TMA reports, this would reduce fees below 1991 payment levels. However, the temporary enhanced Medicaid matching funds, just passed by Congress as part of the tax bill cut, may be used to reduce the size of these cuts. Services eliminated for aged, disabled, and adult TANF recipients on Medicaid are reduced. There will no longer be coverage for counseling, podiatric and chiropractic care, eyeglasses, hearing aids, and other optional benefits for adults on Medicaid. MHMR reductions in community services are made. In-home and family support for mental health is completely eliminated, meaning about 3,000 mental health clients, based on current levels, will not receive services. An 11 percent reduction for community services for mental retardation will result in 2,570 fewer clients being served in 2003. In-home and family support for mental retardation is cut by 61 percent under this budget, and will leave 2,500 fewer who will be served, compared to 2003. Also, there will be fewer TANF benefits to Texas' poorest families with children. Asset limits for TANF families are cut in half unless your family has an elderly or disabled family member living with them. If that is the case, then your asset limits are cut by two-thirds. This change will make nearly 700 current clients ineligible for assistance or deny assistance. The current vehicle value limit of \$15 thousand for two-parent TANF families has been reduced almost \$5 thousand. Can anyone imagine only being able to spend \$5 thousand on a car? Sixty dollars per

child, once a year supplemental payments have been cut in half, to \$30, affecting 250,374 children in 2004-2005. Full family sanctions, the termination of assistance, both to adults and to children, will now apply for an infraction of requirements of the personal responsibility agreement. Nonpregnant adults will also lose Medicaid for noncompliance with work, with child support requirements. These new sanctions are estimated to terminate assistance to almost 60,000 clients. We are cutting, let me just, in winding down, we're cutting to really reading and math initiatives under this bill. They will only receive almost \$40 million when compared to \$64 million of the GR. The teacher-training portion of student success is reduced by \$20 million. We only added \$1.8 million for teacher training. Textbook funding has been cut by almost \$200 million. We've allocated about \$430 million, when \$620 million was requested. Pre-K and Kinder programs will lose \$15 million, and academic excellence funding is reduced by almost \$15 million under this Conference Committee Report. There, Members, there are plenty of other cuts that I can sit here and list all morning. But in the final analysis, I said the first time the budget came before this body, the question that each of you has to ask yourself, can you sleep at night knowing that we've done this to our children? I know my constituents will not allow me to sleep after voting for a bill that takes us back this far. And I, you know, basically, we could have the other night, as Senator Wentworth said in his remarks, that we could have added a \$1.5 billion impact on general revenue through Senator Zaffirini's one dollar tax, that I added my name to, but she gets the credit. Members, to me, on a user fee, that's a no-brainer. I mean, I come from a firehouse, all I have to do is throw that out on table and say, do it. That's a no-brainer, leave it up to Texans to decide whether they want a \$1.5 billion injection in, when we're in a \$10 billion shortfall. And, you know, I just, for the life of me, and we, yes, it was a voice vote, that's why I'm asking record votes from now on, because it's easy to gavel down quickly when you want to get somebody on a record, especially when you're trying to inject \$1.5 billion into the economy to try to at least restore some of these services. And some of the state employees, they're going to be laid off, as Senator Lucio was talking about. I don't have to drive to Senator Lucio's district, to Senator Madla's district, to Senator Van de Putte's district, to Shapleigh's, or Zaffirini's, and we're sitting in Senator Barrientos' district, to understand that we've got a problem out there in health care, with kids. You know, I don't have to go over there, Senator Lucio, I know the problems you're having. And I'm having the same, as growth continues in the State of Texas, and that is what the issue is, it's all about growth. It's easy to put a 1,000 page Senate Finance package before you, with a little nine page summary, and say this is about the best we could do. And not taking in consideration the people, not only the adults and the elderly, but also the kids that are waiting in line for the system to work, these are Texans that are already registered on the rolls, but are not, have not yet been allowed to apply. We are the only state in the Union that throws up a stone wall, a block, when we're talking about, they must reapply every six months. We're the only state of the Union that tells those people that are applying for those benefits, that they must reapply every six months. Every state does it every 12 months. Why? You ask why would we, for children, to throw a stumbling block like that, every six months they've got to apply, and if you know the way the bureaucracy is here in Texas, especially when you're applying, you're lucky to get a call back, we're asking you to

apply every six months, you're lucky to get a call back in 12 months on this application. That's the stumbling block that they put on you, that's the savings that's in this package, in this 1,000 page Senate Finance package. A stumbling block to our elderly that need the same level of services that they've been receiving in the past, to children that are in line and applying for CHIP, and we choose to put a stumbling block, once again, the only state of the Union that allows that. Now, I just, you know, that's why, I think that where I respect Senator Ogden's remarks, I think, it's all about growth, and you've got to, if we're going to talk about Texans, let's talk about all Texans. The ones that are waiting in line, that are not figured in this budget. The ones that live in Senator Lucio's, mine, Senator Shapleigh's, those that are waiting in line, that are legal Texans and are not going to get any kind of services because they're still standing in line. And now we're asking for a six-month application. Every six months their parents have to apply and reapply for CHIP. And that's what it's all about, Members, is those people that are waiting in line that are not figured in, and factored in, those Texans that are not factored into this finance package that has been given to us. I think that when you look at the future of Texas, and we were having a seminar in Senator Zaffirini's district, not Senator Zaffirini, Senator Van de Putte's district, and I was on the panel of growth and, are there going to be enough jobs for Hispanics that are coming in and wanting to live in Texas. And I told them the story about Minute Maid Park during construction, plus constructions that are going on now, and who builds those stadiums, who builds these skyscrapers that you see out these windows. And I said, I don't think that you're going to have a problem in finding a job. The perimeter of Minute Maid Park, under construction, was sealed by a fence, so the only ones going in were the workers, nobody else, and the construction foremen. And I said, I don't think that there was about 50 of the portable potties there on the site, the only ones that can get in there are the workers. And I told this panel that I was in, that I don't think you're going to have a problem on finding a job, when I saw that most of the graffiti inside those portable potties was in Spanish. And I can read Spanish, and I can speak Spanish, so I told that panel, don't worry about it, you'll have a job. And that's why I think that you see a lot of the folks that are coming from Mexico, they see that, I see that, and they want to prosper here in Texas because they see that we are a giving, a compassionate, leave no child behind. But that's not what I see in this budget. I do not see this in this budget. With all due respect, Senator Bivins and Senator Ogden, those on the other side, I don't see that in this budget. We have, those people live in my district, the ones that, the growth that we saw in the census report, they live in my district, they live in your districts. I don't see them part of this budget, and we can continue, and you can pat yourself on the back and say, hey, give yourself 10 attaboys, 10 attagirls, and go back home and say, we did our best. But I don't see those that are the new growth, the new Texans, in this budget. As long as we're not adding them and formulating them in this budget, then we're not doing our jobs, because they're Texans just like we are. And putting loopholes and stumbling blocks in front of them just to save money, save cash, and try to find a solution for a budget deficit by excluding those Texans, that's wrong. Any way you look at it, it's wrong. And that's why, Members, that I'm, you know, voting against this bill, this conference committee. And I know that you've got to do with what you got, but I think that there were some issues that were placed before this body that could've allowed infusion of

general revenue, that the cigarette tax, other issues that were on the table, for some reason that weren't allowed to be debated on this floor or across the hall. There was definitely money available that we could at least have the opportunity either for Texans to vote on them and see if they want this extra general revenue to be infused in our budget and help these folks that are standing in line. I would rather allow them to tell me, they're the ones that elected me, they're the ones that elected you, to tell me what they feel and what they think. Especially on a cigarette tax that would have added \$1.5 billion to this deficit, and including Article I, where so many services are going to be cut, so many people are going to be laid off, state employees. At least, that would have been a start, we could have been looking at other areas, on looking for extra revenue for this budget. But for me, I think that I can go home with a no vote on this and tell them, I, we tried, tried to add \$1.5 billion on a cigarette tax, and we vote it down on the Senate floor. But I, to me, I would rather have allowed Texans to make that decision, not me, just one vote, here on the Senate floor, and that's the way it should be, Members, and then having to see services cut, children's, children across Texas cut on CHIP. And I, that's just the way that I think, and we go to tuition dereg., I don't know if we're going to debate it today, but we will. What that reminds me of, Senator Shapiro, is the movie, if you remember the movie, *Spencer's Mountain*, where Henry Fonda had to make a decision, it was a painful decision. He had a son who obviously was making good grades, and he was graduating at the top of his class, and he had a decision on whether to sell his land and send his son to school, or build the dream house for his family. His decision was to sell his land, because he wanted to send his child, who was the top of his class at his high school, to college. So when this tuition dereg. bill comes up, it reminds me of that movie, Senator, are people going to have to sell their property in order to send their kids to school? And whenever tuition dereg. comes up, that picture comes into my mind, whether I, or any other Texan that wants his child to go to a Texas state school, is going to have to sell something of his because we're going to allow tuition fees to be increased at the local level, and allow colleges to do that. So like I said, there's a lot of things that I could talk about, I could talk about this all night long. But there are others that want to speak. That's my point of view, I'm only one of 31 on this floor. I think that if you look at it, and view it that way, like I said, with all due respect to Senator Ogden's remarks, I think what we're missing is the point, is the growth in the State of Texas, and that's who's not in this budget. I ask you to vote no on this Conference Committee Report.

**Senator Lindsay:** Thank you Mr. President. And I do rise to speak on this bill, and first of all, I might point out that, in many respects, I do agree with what was said by Senator Wentworth. I am going to vote for this bill, however, and I want to express my admiration for what the Finance Committee has done under the rules and guidelines that have been established for them. I think they've done a fantastic job, a fantastic job of putting a budget together, under the circumstances that they had. But I am concerned, and I think we're all concerned, and we should be concerned, because we're going to be looking at an issue here, not too far from now, about school finance, and we're going to have to face some of the same issues at that time. And what I've seen, not only in the budget process here, but in some of the other pieces of legislation that has passed, the issue of passing more of the load on to local governments, as Senator Wentworth said, and has been said by many others, as I listened to them.

Little things, a lot of them little things, but they're meaningful, you know, sweeping \$800 thousand or so out of the legal fund for indigent, a minor thing, doesn't amount to a lot. A bigger issue, putting bigger fines on tickets that are issued, which probably, not fines but penalties, which probably means then the fine's going to be lowered, so there's going to be less money to the local governments and municipalities and counties. And then the bigger things of school, I mean the school issue and, of course, Medicaid, big numbers, and, of course, I'm really concerned that we haven't met the needs for trauma care in the metropolitan areas. And we're going to have to look at that down the road, I believe, again, because I'm not totally convinced that we've done that. So what we have facing us, I believe, in the not too distant future, if it's not here already, and I've seen evidence in Harris County that it's here, and I think we all, with Senator Janek's bill last week, realize that there is a big, big issue, of course, of increase in ad valorem tax and the values on properties, and the increase, of course, of tax bills, because of those increasing values. And I think we're getting to the point of a real crisis, a real crisis that's going to affect local governments, schools, everybody that, the taxes with, ad valorem taxes. And it's going to get more serious as the baby boomers start retiring. I'm, of course, past the baby boomer stage, I'm eligible for retirement. Just because I like you guys, I haven't, I'm staying here so I can mess with you, and besides, I like that big money I make here. But those people are caught in a fix. They retire, their property values continue, especially in the booming areas, like around Harris County, those values are going up on a big basis of big numbers, and that's going to hurt, it's going to be bad. So although I'm voting for this, I think we've got to face this issue sometime in the not too distant future where the state picks up a bigger share of local government finance, or we definitely don't pass on any more Band-Aids along those lines. So, again, Senator Bivins, I think my hat's off to you, I know you've had a tough job. I've watched you, fortunately, I was happy I was not on Finance this time. The last two times I was on, it was easy, we had a little bit of money to work with. You didn't. You did a fantastic job, as did every Member of your committee. Thank you.

**Senator Van de Putte:** Thank you Mr. President. Chairman Bivins and the conferees, I was amazed at your endurance. Let me tell you, it's no secret to the folks back home or to Members of this body, that I voted no on the original bill when it came out of the Senate. I know that there were tough times during the negotiations, and at many times it would have been easier to succumb to the frustration and say, OK, we can't do it. But you didn't. You kept working through the problem, you kept focus, and you kept the five conferees, for the most part, in the room. What I'd like to talk about, just for a few minutes, is what has happened since this bill left the Senate floor, and what I believe are some significant improvements to it. Number one, at a critical time, when we thought all was lost and we would definitely be back here, the Senate side decided, what did we really need out of this budget, in addition to what we had had when it left this floor. And I imagine that the House conferees had this same sort of discussion. And I can tell you, that because of the priorities that you placed and the conferees placed, I am very, very proud to serve with you on this Senate floor. The conferees on the Senate side said that if we pass this budget, we need a few things. And you stood firm at the 200 percent of poverty level for our Children's Health Insurance Program. And although the policies may be changed, that

significant action said that the Senate's priorities was the health care of children. As I understand it, the second thing that you wanted was to make sure that the Frail and Elderly Program got back up to its level. And what that says is that those who are the most needy need not take the most severe cuts. And you said something also very, very important. We want CHIP, we want the restoration of the Frail and Elderly, and you said, we need extra money into higher ed. That's the opportunity that Senator Ogden was talking about. The higher ed. component of this was a critical part. As I understand it, let me go through what I think the House wanted, since I sat with you the last weekend. As I understand it, the House wanted something, maybe a little bit on different track than the Senate. The House wanted a program for Nobel Laureates at Southwestern. Great idea, great conference, and we needed that, but at the expense of what? As I understand it, the House thought that it was real important for a junior college in West Texas to be able to have a four-year degree at something. And as I understand it, the House demanded that we have total tuition deregulation for our institutions of higher ed., total. And so, I want to comment, Senator Bivins, on the differences between what was really important to the Senate, and what was important to the House. The things important to the Senate were CHIP, Frail and Elderly, and higher ed. That means taking care of kids, that means taking care of those most needy, and that means giving working families the opportunity to obtain a college degree. And I think that you did a fantastic job with that. Now, I'm not real excited about the budget. But I think you've done a tremendous job under severe circumstances. And having sat with you there, 18, 20 hours straight, that last weekend you were in negotiations, I know that those decisions were made with a lot of thought and a lot of compassion. And, so, Senator, while I am very concerned, and I, too, like Senator Wentworth, know that we may go home and we can beat our chests, and we can say, we didn't raise taxes, in essence, we have. We have forced our local communities to raise those ad valorem taxes. So I think it's a false victory for us, but you have done a wonderful job, and the conferees have shown that what's important to this Senate, is kids, frail and elderly, and the opportunity for working families to get a college education.

**Senator Bivins:** Thank you Senator.

**Senator Barrientos:** May it please the Senate, Mr. President, there have been several here who have spoken more eloquently than I can, so I shan't prolong the discussion, Senator Shapleigh being among those. Earlier today, Senator, someone said, Texas has always been about providing opportunity. Now, Members, we can pat ourselves on the back all we want to, but I think that we Texans, every once in awhile, need a little humility. In our lifetimes, Members, there were segregated schools for African Americans, segregated schools for Hispanics, and segregated schools for whites, in our lifetimes. That was not providing opportunity for us Texans. In our lifetimes, those of us who spoke Spanish in schools got beat for it, spanked. So Texas is not always about providing opportunities. But it is up to us today to live up to the American dream. This bill spends more? Of course it spends a little bit more, we've grown a lot. But spend more compared to what? It reminds me, Members, of when I first got to the House, as a freshman being on the Appropriations Committee, and asking a certain state agency how many minorities they hired. And they said, well we're not doing very well at that. And the next session we'd come back, and say, how



many minorities have you hired this time? Well, Representative, we've increased 50 percent. I said, oh, 50 percent, that's wonderful, compared to what? Well they had hired one the previous time, they hired another one this next time. That's 100 percent. That's double. Looking for qualified ones. Oh, and by the way, the other day when we were in the other chamber, we had that session recognizing the Texans who died in Iraq, did you notice that 50 percent of them were named Anguiano, Soto, Fernandez, Garza? Providing opportunities, Members? In all of my time in the Legislature, I have had, never had such a heavy heart. I spent my years fighting for those whose voices, historically, have not been heard. And after past sessions, I have been able, sometimes, to look back and feel a sense of accomplishment, feeling that in some small way, with the help of many of you, that the sick, the elderly, the children, all Texans would enjoy a better quality of life as a result of work we did. But this session, this budget, they do not reflect many of the ideals that I have held for the past 20 some-odd years. And as has been said before, Senator Van de Putte, the underlying theme of this session has been to favor big business, large corporate interests and their legions of lawyers and lobbyists, over the interests of working Texans. Look at the budget, Members. People like to hear that we're balancing the budget without new taxes, but we all know this budget is balanced too heavily on the backs of the working people, and we all know we are shifting those responsibilities, Senator Lindsay, to our county and our city governments. Our constituents are going to be paying more for services, it'll just be to the city or the county, instead of the state. So we talk about local control, but in terms of money, we are not giving them an honest option. Local taxes are going to go up, and as a deli owner here in Austin says, "I gotta tell ya," Members, I would hate to be a County Commissioner or a Mayor right now, in Texas. "I gotta tell ya," I gotta vote against it. Thank you.

**Senator Bivins:** Thank you Senator.

On motion of Senator Bivins, the Conference Committee Report was adopted by the following vote: Yeas 24, Nays 7.

Yeas: Armbrister, Averitt, Bivins, Brimer, Carona, Deuell, Duncan, Ellis, Estes, Fraser, Harris, Jackson, Janek, Lindsay, Nelson, Ogden, Ratliff, Shapiro, Staples, Van de Putte, West, Whitmire, Williams, Zaffirini.

Nays: Barrientos, Gallegos, Hinojosa, Lucio, Madla, Shapleigh, Wentworth.

### MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

June 1, 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 ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 1566** (non-record vote)

**HB 1695** (House adopts ccr by a vote of 102 yeas, 36 nays, 2 pnv)

**HB 2588** (non-record vote)

**HJR 68** (House adopts ccr by a vote of 142 yeas, 0 nays, 3 pnv)

**SB 16** (non-record vote)

**SB 103** (House adopts ccr by a vote of 141 yeas, 0 nays, 2 pnv)

**SB 1010** (non-record vote)

**SB 1639** (House adopts ccr by a vote of 131 yeas, 8 nays, 2 pnv)

**SJR 30** (House adopts ccr by a vote of 141 yeas, 0 nays, 1 pnv)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3042 ADOPTED

Senator Ellis called from the President's table the Conference Committee Report on **HB 3042**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Ellis, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

### SENATE RESOLUTION 1045

Senator Harris offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **HB 1365**, relating to the Texas emissions reduction plan, to consider and take action on the following matter:

(1) Senate Rule 12.03(2) is suspended in order to allow the committee to omit text from Section 151.0515(a), Tax Code, as amended by both houses, so that the section reads 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.

Explanation: This change is necessary to provide that only mining equipment but not certain drilling equipment is added to the kinds of equipment subject to the sale, lease, or rental surcharge on new or used equipment.

(2) Senate Rules 12.03(3) and (4) are suspended to allow the committee to add the following text to SECTION 27 of the bill to read as follows:

(c) the change in law made by Section 25 of this Act does not affect speed limits that have been approved by the Texas Transportation Commission before the effective date of this Act.

Explanation: This change is necessary to make clear that a speed limit approved by the Texas Transportation Commission before the effective date of the Act is not affected by the change in law made by SECTION 25 of the Act.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1365 ADOPTED**

Senator Harris called from the President's table the Conference Committee Report on **HB 1365**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Harris, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

### **SENATE RESOLUTION 1021**

Senator Staples offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **SB 1639**, relating to regulation of spacing and production of groundwater from aquifers by a groundwater district, to consider and take action on the following matter:

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

SECTION 2. Subchapter B, Chapter 11, Water Code, is amended by adding Sections 11.0235, 11.0236, and 11.0237 to read as follows:

Sec. 11.0235. POLICY REGARDING WATERS OF THE STATE. (a) The waters of the state are held in trust for the public, and the right to use state water may be appropriated only as expressly authorized by law.

(b) Maintaining the biological soundness of the state's rivers, lakes, bays, and estuaries is of great importance to the public's economic health and general well-being.

(c) The legislature has expressly required the commission while balancing all other interests to consider and provide for the freshwater inflows necessary to maintain the viability of the state's bay and estuary systems in the commission's regular granting of permits for the use of state waters.

(d) The legislature has not expressly authorized granting water rights exclusively for:

(1) instream flows dedicated to environmental needs or inflows to the state's bay and estuary systems; or

(2) other similar beneficial uses.

(e) The fact that greater pressures and demands are being placed on the water resources of the state makes it of paramount importance to reexamine the process for ensuring that these important priorities are effectively addressed in clear delegations of authority to the commission.

Sec. 11.0236. STUDY COMMISSION ON WATER FOR ENVIRONMENTAL FLOWS. (a) In recognition of the importance that the ecological soundness of our riverine, bay, and estuary systems and riparian lands has on the economy, health, and well-being of the state there is created the Study Commission on Water for Environmental Flows.

(b) The study commission is composed of 15 members as follows:

(1) two members appointed by the governor;

(2) five members appointed by the lieutenant governor;

(3) five members appointed by the speaker of the house of representatives;

(4) the presiding officer of the commission or the presiding officer's designee;

(5) the chairman of the board or the chairman's designee; and

(6) the presiding officer of the Parks and Wildlife Commission or the presiding officer's designee.

(c) Of the members appointed under Subsection (b)(2):

(1) one member must represent a river authority or municipal water supply agency or authority;

(2) one member must represent an entity that is distinguished by its efforts in resource protection; and

(3) three members must be members of the senate.

(d) Of the members appointed under Subsection (b)(3):

(1) one member must represent a river authority or municipal water supply agency or authority;

(2) one member must represent an entity that is distinguished by its efforts in resource protection; and

(3) three members must be members of the house of representatives.

(e) Each appointed member of the study commission serves at the will of the person who appointed the member.

(f) The appointed senator with the most seniority and the appointed house member with the most seniority serve together as co-presiding officers of the study commission.

(g) A member of the study commission is not entitled to receive compensation for service on the study commission but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the study commission, as provided by the General Appropriations Act.

(h) The study commission may accept gifts and grants from any source to be used to carry out a function of the study commission.

(i) The commission shall provide staff support for the study commission.

(j) The study commission shall conduct public hearings and study public policy implications for balancing the demands on the water resources of the state resulting from a growing population with the requirements of the riverine, bay, and estuary systems including granting permits for instream flows dedicated to environmental needs or bay and estuary inflows, use of the Texas Water Trust, and any other issues that the study commission determines have importance and relevance to the protection of environmental flows. In evaluating the options for providing adequate environmental flows, the study commission shall take notice of the strong public policy imperative that exists in this state recognizing that environmental flows are important to the biological health of our parks, game preserves, and bay and estuary systems and are high priorities in the permitting process. The study commission shall specifically address ways that the ecological soundness of these systems will be ensured in the water allocation process.

(k) The study commission:

(1) shall appoint an advisory scientific committee that will:

(A) serve as impartial scientific advisors and reviewers for the study commission; and

(B) have a membership of no fewer than five and no more than nine total members chosen by the study commission to represent a variety of areas of relevant technical expertise;

(2) may appoint additional advisory committees to assist the study commission; and

(3) may draft proposed legislation to modify existing water-rights permitting statutes.

(l) Not later than December 1, 2004, the study commission shall issue a report summarizing:

(1) any hearings conducted by the study commission;

(2) any studies conducted by the study commission;

(3) any legislation proposed by the study commission; and

(4) any other findings and recommendations of the study commission.

(m) The study commission shall promptly deliver copies of the report to the governor, lieutenant governor, and speaker of the house of representatives.

(n) The study commission shall adopt rules to administer this section.

(o) The study commission is abolished and this section expires September 1, 2005.

Sec. 11.0237. WATER RIGHTS FOR INSTREAM FLOWS DEDICATED TO ENVIRONMENTAL NEEDS OR BAY AND ESTUARY INFLOWS. (a) The commission may not issue a new permit for instream flows dedicated to environmental needs or bay and estuary inflows. This section does not prohibit the commission from issuing an amendment to an existing permit or certificate of adjudication to change the use to or add a use for instream flows dedicated to environmental needs or bay and estuary inflows.

(b) This section does not alter the commission's obligations under Section 11.042(b), 11.046(b), 11.085(k)(2)(F), 11.134(b)(3)(D), 11.147, 11.1491, 16.058, or 16.059.

(c) This section expires September 1, 2005.

SECTION 3. Subsections (d) and (e), Section 11.147, Water Code, are amended to read as follows:

(d) In its consideration of an application to store, take, or divert water, the commission shall include in the permit, to the extent practicable when considering all public interests, those conditions considered by the commission necessary to maintain [~~consider the effect, if any, of the issuance of the permit on~~] existing instream uses and water quality of the stream or river to which the application applies.

(e) The commission shall include in the permit, to the extent practicable when considering all public interests, those conditions considered by the commission necessary to maintain [~~also consider the effect, if any, of the issuance of the permit on~~] fish and wildlife habitats.

Explanation: This added text is necessary in order to provide for permitting of water rights for instream flows.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 1639 ADOPTED**

Senator Staples called from the President's table the Conference Committee Report on **SB 1639**. The Conference Committee Report was filed with the Senate on Friday, May 30, 2003.

On motion of Senator Staples, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 286 ADOPTED**

Senator Shapleigh called from the President's table the Conference Committee Report on **SB 286**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 264 ADOPTED**

Senator Lucio called from the President's table the Conference Committee Report on **SB 264**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1576 ADOPTED**

Senator Shapleigh called from the President's table the Conference Committee Report on **HB 1576**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Shapleigh, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**SENATE RESOLUTION 1032**

Senator Shapleigh offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **HB 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, to consider and take action on the following matter:

Senate Rule 12.03(4) is suspended to permit the committee to add SECTIONS 30 and 31 to the bill to read as follows:

SECTION 30. The heading to Subchapter N, Chapter 651, Occupations Code, is amended to read as follows:

SUBCHAPTER N. LICENSING ~~[REGISTRATION]~~ REQUIREMENTS:  
~~[CEMETERIES AND]~~ CREMATORIES

SECTION 31. Section 651.652(a), Occupations Code, is amended to read as follows:

(a) This subchapter applies only to a ~~[cemetery or]~~ crematory that sells goods or services related to the burial or final disposition of a body.

Explanation: These changes are necessary to resolve unintentional conflicts between this bill and enrolled and signed House Bill No. 587, 78th Legislature, Regular Session, 2003. The added sections remove cemetery language to conform to this bill.

Senate Rule 12.03(1) is suspended to permit the committee to change SECTION 44 of the bill to read as follows:

SECTION 44. On March 1, 2004, Sections 651.652(b), 651.653, 651.654, and 651.655, Occupations Code, are repealed.

Explanation: The bill repealed all of Subchapter N, Chapter 651, Occupations Code, which unintentionally conflicts with enrolled and signed House Bill No. 587, 78th Legislature, Regular Session, 2003. The revised section repeals only those sections that do not conflict with the purposes of either bill.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

#### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1538 ADOPTED**

Senator Shapleigh called from the President's table the Conference Committee Report on **HB 1538**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

#### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 280 ADOPTED**

Senator Nelson called from the President's table the Conference Committee Report on **SB 280**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

#### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 279 ADOPTED**

Senator Jackson called from the President's table the Conference Committee Report on **SB 279**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

#### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3578 ADOPTED**

Senator Ellis called from the President's table the Conference Committee Report on **HB 3578**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Ellis, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.



**MESSAGE FROM THE HOUSE****HOUSE CHAMBER**

Austin, Texas

June 1, 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 286**, Honoring U.S. Marine Corporal Manuel Espinoza, Jr., of Weslaco for his bravery during Operation Iraqi Freedom.

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 320** (House adopts ccr by a vote of 140 yeas, 0 nays, 2 pnv)

**HB 329** (non-record vote)

**HB 335** (non-record vote)

**HB 411** (non-record vote)

**HB 471** (non-record vote)

**HB 727** (House adopts ccr by a vote of 146 yeas, 0 nays, 2 pnv)

**HB 1119** (non-record vote)

**HB 1204** (House adopts ccr by a vote of 147 yeas, 0 nays, 1 pnv)

**HB 1538** (non-record vote)

**HB 2075** (non-record vote)

**HB 2415** (House adopts ccr by a vote of 142 yeas, 0 nays, 2 pnv)

**HB 2533** (non-record vote)

**HB 2593** (non-record vote)

**HB 3578** (House adopts ccr by a vote of 139 yeas, 0 nays, 3 pnv)

**HB 3622** (non-record vote)

**HJR 85** (House adopts ccr by a vote of 144 yeas, 0 nays, 2 pnv)

**SB 76** (non-record vote)

**SB 160** (non-record vote)

**SB 279** (non-record vote)

**SB 280** (House adopts ccr by a vote of 145 yeas, 1 nay, 1 pnv)

**SB 361** (House adopts ccr by a vote of 146 yeas, 0 nays, 2 pnv)

**SB 473** (non-record vote)

**SB 474** (non-record vote)

**SB 585** (non-record vote)

**SB 610** (non-record vote)

**SB 631** (non-record vote)

**SB 826** (non-record vote)

**SB 929** (non-record vote)

**SB 970** (non-record vote)

**SB 1000** (House adopts ccr by a vote of 143 yeas, 0 nays, 1 pnv)

**SB 1131** (non-record vote)

**SB 1182** (House adopts ccr by a vote of 146 yeas, 0 nays, 1 pnv)

**SB 1413** (House adopts ccr by a vote of 144 yeas, 0 nays, 2 pnv)

**SB 1551** (non-record vote)

**SB 1664** (non-record vote)

**SB 1708** (non-record vote)

**SB 1771** (non-record vote)

**SB 1835** (House adopts ccr by a vote of 86 yeas, 53 nays, 2 pnv)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### SENATE RESOLUTION 982

Senator Ellis offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **SB 287**, relating to changing the composition of certain state agency governing bodies with an even number of members to comply with the changes made to Section 30a, Article XVI, Texas Constitution, to consider and take action on the following matters:

(1) Senate Rule 12.03(3) is suspended to permit the committee to add new text to Section 651.008(a), Government Code, as added by the bill, so that Subsection (a) reads as follows:

(a) This section applies to the governing body of a state board or commission or other state agency only if:

(1) by statute the governing body is composed of an even number of voting members, the appointed members of whom serve staggered six-year terms; and

(2) there is no provision of the Texas Constitution under which the governing body is allowed to be composed in that manner and serve staggered six-year terms.

Explanation: The added text is necessary to clarify in Subsection (a)(2) that the length of the members' terms, as well as the composition of the governing body, must comply with applicable constitutional provisions.

(2) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add a new Section 651.0085, Government Code, to the bill to read as follows:

Sec. 651.0085. CERTAIN UNCONSTITUTIONALLY COMPOSED DISTRICTS AND AUTHORITIES WITH SIX-YEAR TERMS. (a) This section applies only to the governing body of a district or authority created under Section 52(b), Article III, Texas Constitution, or Section 59, Article XVI, Texas Constitution, and only if:

(1) by law the governing body is composed of an even number of voting members; and

(2) the elected or appointed members of the governing body serve staggered six-year terms and the only provision of the Texas Constitution under which the members of the governing body are allowed to serve staggered six-year terms is Section 30a, Article XVI.

(b) Section 651.008 does not apply to a district or authority to which this section applies.

(c) Notwithstanding the terms of the enabling statute of the district or authority that prescribes the number of members of the governing body:

(1) if some or all of the members of the governing body are appointed, the governor shall appoint an additional public or at-large member, as applicable, to the governing body for an initial term expiring on the date on which the terms of members of the governing body whose terms are scheduled to expire between four and six years after the date of the governor's appointment under this subdivision expire; and

(2) if all of the members of the governing body are elected, an additional public or at-large elected position, as applicable, is created on the governing body and the governor shall appoint the initial member to fill that position for an initial term expiring on the first date on which members' terms expire following the next election for members of the governing body.

(d) As soon as possible after it is determined that this section applies to the governing body, the administrative head of the district or authority shall inform of that fact:

(1) each appointing authority that by statute appoints one or more members to the governing body;

(2) the governor and the presiding officer of each house of the legislature;

(3) each standing committee of each house of the legislature that under the rules of either house has jurisdiction over legislative matters pertaining to the district or authority;

(4) the secretary of state, if the governing body is subject to Subsection (c)(2), for purposes of allowing the secretary of state to advise the district or authority on matters relating to preclearance under the federal Voting Rights Act (42 U.S.C. Section 1973c et seq.); and

(5) the Legislative Reference Library for purposes of including current information in the Texas Appointment System database.

(e) If the governor appoints a member to the governing body of the district or authority under Subsection (c)(1) and the legislature does not, by law, make other arrangements for electing or appointing a person to fill the position, the governor shall continue to appoint a member to fill the position as vacancies in the position occur and as a member's term in the position expires. If the governor appoints a member to the governing body of the district or authority under Subsection (c)(2) and the legislature does not, by law, make other arrangements for electing or appointing a person to fill the position, the position shall be filled by election as vacancies in the position occur and as a member's term in the position expires, except to the extent that the enabling statute for the district or authority provides a different method for filling vacancies on the governing body.

(f) After the initial term of a position created under this section expires, the term of the position is six years.

Explanation: The added text is necessary to allow districts and authorities created under Section 52(b), Article III, Texas Constitution, or Section 59, Article XVI, Texas Constitution, such as river authorities, that have a governing body composed of an even number of members who serve staggered six-year terms and that depend on Section 30a, Article XVI, Texas Constitution, for the constitutional authority to have the members of the governing body serve six-year terms, to come into compliance with the changes made to Section 30a, Article XVI.

(3) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add text to the introductory language to the SECTION of the bill adding Sections 651.008, 651.0085, and 651.009 to the Government Code so that the introductory language reads as follows:

SECTION 50.01. Chapter 651, Government Code, is amended by adding Sections 651.008, 651.0085, and 651.009 to read as follows:

Explanation: The added text is necessarily connected with adding Section 651.0085, Government Code, to the bill.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 287 ADOPTED**

Senator Ellis called from the President's table the Conference Committee Report on **SB 287**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Ellis, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

### **SENATE RESOLUTION 1046**

Senator Bivins offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That the Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **HB 3459**, relating to fiscal matters involving certain governmental educational entities, including public school finance, program compliance monitoring by the Texas Education Agency, amounts withheld from and the use of compensatory education allotments, the public school technology allotment, the accounting for the permanent school fund, employee benefits provided by certain educational entities, the uses of the telecommunications infrastructure fund, and participation in a multijurisdiction lottery game, to consider and take action on the following matter:

Senate Rule 12.03(4) is suspended to permit the committee to add SECTIONS 5, 28, 43, 44, 45, 59, 68, 69, 73, 74, 78, and 79 to read as follows:

SECTION 5. Section 11.151, Education Code, is amended by adding Subsection (e) to read as follows:

(e) A school district may request the assistance of the attorney general on any legal matter. The district must pay any costs associated with the assistance.

SECTION 28. (a) Sections 41.0021(a) and (e), Education Code, are amended to read as follows:

(a) Notwithstanding Section 41.002, for the [~~2001-2002, 2002-2003, and~~ 2003-2004 school year ~~years~~], a school district that in the 1999-2000 school year did not offer each grade level from kindergarten through 12 may elect to have its wealth per student determined under this section.

(e) This section expires September 1, 2004.

(b) This section prevails over any other Act of the 78th Legislature, Regular Session, 2003, amending Sections 41.0021(a) and (e), Education Code.

SECTION 43. Section 822.001, Government Code, is amended by adding Subsections (c) through (f) to read as follows:

(c) Membership in the retirement system begins on the 91st day after the first day a person is employed.

(d) A person who is reemployed after withdrawing contributions for previous service credit begins membership on the 91st day after the first day the person is reemployed.

(e) Notwithstanding any other provision of law, a member may establish credit only as provided by Section 823.406 for service performed during the 90-day waiting period provided by Subsection (c) or (d).

(f) Subsections (c), (d), and (e) and this subsection expire September 1, 2005.

SECTION 44. Section 823.002, Government Code, is amended to read as follows:

Sec. 823.002. SERVICE CREDITABLE IN A YEAR. (a) The board of trustees by rule shall determine how much service in any year is equivalent to one year of service credit, but in no case may all of a person's service in one school year be creditable as more than one year of service. Service that has been credited by the retirement system on annual statements for a period of five or more years may not be deleted or corrected because of an error in crediting unless the error concerns three or more years of service credit or was caused by fraud.

(b) The rules adopted by the board of trustees under Subsection (a) must provide that the 90-day waiting periods described by Sections 822.001(c) and (d) be applied with regard to contributions during a member's first year of service under either of those subsections in a manner that, to the greatest extent possible, minimizes the cost to the retirement system. This subsection expires September 1, 2005.

SECTION 45. Subchapter E, Chapter 823, Government Code, is amended by adding Section 823.406 to read as follows:

Sec. 823.406. CREDIT PURCHASE OPTION FOR CERTAIN SERVICE.

(a) A member may establish membership service credit under this section only for service performed during a 90-day waiting period to become a member after beginning employment.

(b) A member may establish service credit under this section by depositing with the retirement system, for each month of service credit, the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit under this section, based on rates and tables recommended by the retirement system's actuary and adopted by the board of trustees.

(c) After a member makes the deposits required by this section, the retirement system shall grant the member one month of equivalent membership service credit for each month of credit approved.

(d) The retirement system shall deposit the amount of the actuarial present value of the service credit purchased in the member's individual account in the employees saving account.

(e) The board of trustees may adopt rules to administer this section.

SECTION 59. Section 57.046, Utilities Code, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) The board shall use money in the public schools account to:

(1) to the extent directed in the General Appropriations Act, fund the technology allotment under Section 32.005, Education Code; and

(2) award grants and loans in accordance with this subchapter to fund:

(A) ~~(+)~~ equipment for public schools, including computers, printers, computer labs, and video equipment; and

(B) ~~(=)~~ intracampus and intercampus wiring to enable those public schools to use the equipment.

(c) Section 57.047(d) does not apply to the use of money in the public schools account for the purpose specified by Subsection (a)(1).

(d) In addition to the purposes for which the qualifying entities account may be used, the board may use money in the account to award grants to the Health and Human Services Commission for technology initiatives of the commission.

SECTION 68. Notwithstanding any conflicting provision of H.B. No. 1, Acts of the 78th Legislature, Regular Session, 2003, the guaranteed level of state and local funds per weighted student per cent of tax effort is \$25.81. This subsection does not affect a school district's entitlement to any additional revenue under H.B. No. 1, Acts of the 78th Legislature, Regular Session, 2003.

SECTION 69. Of the amounts appropriated by H.B. No. 1, Acts of the 78th Legislature, Regular Session, 2003, to the Texas Education Agency under Strategy A.1.2, FSP - Equalized Facilities, for purposes of the existing debt assistance program under Subchapter B, Chapter 46, Education Code, the commissioner of education may, in the fiscal year ending August 31, 2005, use an amount not to exceed \$20 million for purposes of the instructional facilities allotment under Subchapter A, Chapter 46, Education Code.

SECTION 73. Section 822.001, Government Code, as amended by this Act, and Section 823.406, Government Code, as added by this Act, apply only to a person who is first employed on or after the effective date of this Act and to a former employee who has withdrawn retirement contributions under Section 822.003, Government Code, and is reemployed on or after the effective date of this Act.

SECTION 74. The requirements of Section 823.002(b), Government Code, as added by this Act, apply to persons whose employment begins on or after the effective date of this Act. The board of trustees of the Teacher Retirement System of Texas shall adopt rules implementing the requirements of that subsection as soon as practicable after the effective date of this Act.

SECTION 78. Chapter 466, Government Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. PARTICIPATION IN MULTIJURISDICTION

LOTTERY GAME

Sec. 466.451. MULTIJURISDICTION AGREEMENT AUTHORIZED. The commission may enter into a written agreement with the appropriate officials of one or more other states or other jurisdictions, including foreign countries, to participate in the operation, marketing, and promotion of a multijurisdiction lottery game or games. The commission may adopt rules relating to a multijurisdiction lottery game or games.

Sec. 466.452. REVENUE FROM MULTIJURISDICTION LOTTERY.  
(a) Except as provided by this section, revenue received from the sale of tickets in this state for a multijurisdiction lottery game is subject to Subchapter H.

(b) The commission may deposit a portion of the revenue received from the sale of multijurisdiction lottery game tickets in this state into a fund shared with other parties to an agreement under this subchapter for the payment of prizes awarded in multijurisdiction lottery games in which the commission participates. The commission may retain that revenue in the fund for as long as necessary to pay prizes claimed during the period designated for claiming a prize in the multijurisdiction lottery game.

Sec. 466.453. PAYMENT OF COSTS AUTHORIZED. The commission may share in the payment of costs associated with participating in multijurisdiction lottery games.

SECTION 79. (a) As soon as practicable after the effective date of this Act, the Texas Lottery Commission shall adopt the rules necessary to implement multijurisdiction lottery games in accordance with Subchapter J, Chapter 466, Government Code, as added by this Act.

(b) The Texas Lottery Commission may adopt an emergency rule under Subsection (a) of this section without prior notice or hearing, or with any abbreviated notice and hearing as the commission finds practicable, for the implementation of the change in law made by Subchapter J, for multijurisdiction lottery games, Chapter 466, Government Code. Section 2001.034, Government Code, does not apply to an emergency rule adopted under this section.

(c) Notwithstanding any law to the contrary, including any law enacted during the 78th Legislature, Regular Session, 2003, to promptly implement Subchapter J, Chapter 466, Government Code, as added by this Act, a contract for the acquisition or provision of facilities, supplies, equipment, materials, or services related to the initial operation of multijurisdiction lottery games under these subchapters is not subject to:

- (1) Subtitle D, Title 10, Government Code;
- (2) Section 466.101, Government Code;
- (3) Chapter 2161, Government Code; or

(4) any competitive bidding requirements or contract requirements provided by any other law or by rules of the Texas Lottery Commission.

Explanation: These additions are necessary to permit a school district to request the assistance of the attorney general, to provide for determining the wealth per student of certain school districts, to administer the state retirement system, including delaying participation in the state retirement system until the 91st day after employment with the state, to permit the awarding of certain grants to the Health and Human Services Commission for technology initiatives, to provide that the guaranteed level of state and local funds per weighted student per cent of tax effort is \$25.81, to permit the commissioner of education to use certain funds for purposes of the instructional facilities allotment under Subchapter A, Chapter 46, Education Code, and to permit the Texas Lottery Commission to participate in a multijurisdiction lottery game or games.

The resolution was read and was adopted by the following vote: Yeas 20, Nays 9.

Yeas: Armbrister, Averitt, Barrientos, Bivins, Brimer, Deuell, Ellis, Estes, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Ogden, Van de Putte, Wentworth, Zaffirini.

Nays: Carona, Fraser, Nelson, Ratliff, Shapiro, Shapleigh, Staples, West, Williams.

Absent: Duncan, Whitmire.

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3459 ADOPTED**

Senator Bivins called from the President's table the Conference Committee Report on **HB 3459**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Bivins, the Conference Committee Report was adopted by the following vote: Yeas 22, Nays 8.

Yeas: Armbrister, Averitt, Barrientos, Bivins, Brimer, Deuell, Duncan, Ellis, Estes, Gallegos, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Ogden, Wentworth, West, Whitmire, Zaffirini.

Nays: Fraser, Nelson, Ratliff, Shapiro, Shapleigh, Staples, Van de Putte, Williams.

Absent: Carona.

### **AT EASE**

The Presiding Officer, Senator Armbrister in Chair, at 2:40 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

### **IN LEGISLATIVE SESSION**

Senator Averitt at 3:15 p.m. called the Senate to order as In Legislative Session.



**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

June 1, 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 285**, Instructing the enrolling clerk of the senate to make technical corrections to S.B. No. 1108.

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 425** (non-record vote)

**HB 638** (House adopts ccr by a vote of 148 yeas, 0 nays, 2 pnv)

**HB 1082** (non-record vote)

**HB 1314** (House adopts ccr by a vote of 136 yeas, 6 nays, 2 pnv)

**HB 1541** (House adopts ccr by a vote of 148 yeas, 0 nays, 2 pnv)

**HB 1576** (House adopts ccr by a vote of 138 yeas, 0 nays, 2 pnv)

**HB 1817** (House adopts ccr by a vote of 145 yeas, 0 nays, 2 pnv)

**HB 2044** (House adopts ccr by a vote of 146 yeas, 0 nays, 2 pnv)

**HB 2455** (non-record vote)

**HB 3042** (House adopts ccr by a vote of 147 yeas, 0 nays, 2 pnv)

**HB 3546** (non-record vote)

**HJR 28** (House adopts ccr by a vote of 143 yeas, 0 nays, 2 pnv)

**SB 127** (House adopts ccr by a vote of 146 yeas, 0 nays, 2 pnv)

**SB 287** (House adopts ccr by a vote of 142 yeas, 0 nays, 3 pnv)

**SB 755** (House adopts ccr by a vote of 144 yeas, 0 nays, 2 pnv)

**SB 1059** (non-record vote)

**SB 1108** (House adopts ccr by a vote of 146 yeas, 0 nays, 2 pnv)

**SB 1272** (non-record vote)

**SB 1303** (House adopts ccr by a vote of 147 yeas, 0 nays, 2 pnv)

**SB 1387** (non-record vote)

**SB 1782** (House adopts ccr by a vote of 147 yeas, 0 nays, 2 pnv)

**SB 1936** (House adopts ccr by a vote of 145 yeas, 0 nays, 1 pnv)

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

**HB 645** (non-record vote)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**VOTE RECONSIDERED ON  
CONFERENCE COMMITTEE REPORT ON SENATE BILL 280**

On motion of Senator Nelson and by unanimous consent, the vote by which the Conference Committee Report on **SB 280** was adopted was reconsidered.

Question — Shall the Conference Committee Report on **SB 280** be adopted?

The Conference Committee Report to **SB 280** was again adopted by the following vote: Yeas 31, Nays 0.

**SENATE RESOLUTION 1051**

Senator Duncan offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **SB 1370**, relating to certain group benefit plans provided to certain governmental officers, employees, and retirees and their dependents, to consider and take action on the following matter:

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

SECTION 2.08. Subchapter G, Chapter 1551, Insurance Code, as effective June 1, 2003, is amended by adding Section 1551.3015 to read as follows:

Sec. 1551.3015. COST ASSESSMENT FOR CERTAIN PARTICIPANTS. Notwithstanding any other provision of law, the board of trustees may impose against an employer whose employees are not paid salaries from amounts appropriated by the General Appropriations Act and whose participation in the group benefits program begins after August 31, 2003, as a condition for participation in the program, a one-time assessment of administrative costs for participation of the employees and annuitants in the program, which may include the actuarial costs of including the group in the program and a participation premium determined by the board. The board of trustees shall deposit all amounts recovered under this section in the employees life, accident, and health insurance and benefits fund.

Explanation: The added section is necessary to authorize the board of trustees to impose a cost assessment against certain employers whose employees and annuitants participate in the group benefits program under the Texas Employees Group Benefits Act.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1370 ADOPTED**

Senator Duncan called from the President's table the Conference Committee Report on **SB 1370**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**RECORD OF VOTE**

Senator Ratliff asked to be recorded as voting "Nay" on the adoption of the Conference Committee Report on **SB 1370**.

**GUESTS PRESENTED**

Senator Shapleigh was recognized and introduced to the Senate a delegation of international students: Arlene Masabo and Jennie Masabo from the Republic of Burundi, and Loise Lundberg and Stephen Klongo from the Republic of Kenya.

The Senate welcomed its guests.

**SENATE BILL 611 WITH HOUSE AMENDMENT**

Senator Nelson called **SB 611** from the President's table for consideration of the House amendment to the bill.

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

**Amendment No. 1**

Amend SECTION 2 of **SB 611** by adding:

(c) A person described in Section 149.001(b)(1) of the Finance Code may request a hearing before the Credit Union Commissioner for additional time to comply with this section. If the Commissioner makes a determination that the person is unable to comply with the provisions in this section by March 1, 2005 and has made a good faith attempt to comply with this section, the Commissioner shall issue an order for the person to take the actions required and provide for up to one year for the person to come into compliance with this section. Any person not provided additional time to comply will be subject to all provisions of this section as of the effective date. Any hearing conducted and all materials related to such hearing are deemed confidential. Any request for a hearing shall be made not less than 60 days prior to March 1, 2005.

The amendment was read.

Senator Nelson moved to concur in the House amendment to **SB 611**.

The motion prevailed by a viva voce vote.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 16 ADOPTED**

Senator Staples called from the President's table the Conference Committee Report on **SB 16**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1771 ADOPTED**

Senator Brimer called from the President's table the Conference Committee Report on **SB 1771**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**RECORD OF VOTE**

Senator Ogden asked to be recorded as voting "Nay" on the adoption of the Conference Committee Report on **SB 1771**.

**SENATE RESOLUTION 1047**

Senator Nelson offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **HB 2455**, relating to the governmental entities subject to, and the confidentiality of records under, the sunset review process, to consider and take action on the following matter:

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

SECTION 1.03. TEXAS LOTTERY COMMISSION AND LOTTERY DIVISION. (a) Section 467.002, Government Code, is amended to read as follows:

Sec. 467.002. APPLICATION OF SUNSET ACT. 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 Act expires September 1, 2005 [~~2003~~]. In the review of the commission by the Sunset Advisory Commission, as required by this section, the sunset commission shall limit its review to the appropriateness of recommendations made by the sunset commission to the 78th Legislature. In the Sunset Advisory Commission's report to the 79th Legislature, the sunset commission may include any recommendations it considers appropriate.

(b) Section 466.003(a), Government Code, is amended to read as follows:

(a) The lottery division is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the division is abolished and this chapter expires September 1, 2005 [~~2003~~]. In the review of the lottery division by the Sunset Advisory Commission, as required by this section, the sunset commission shall limit its review to the appropriateness of recommendations made by the sunset

commission to the 78th Legislature. In the Sunset Advisory Commission's report to the 79th Legislature, the sunset commission may include any recommendations it considers appropriate.

(c) This section takes effect only if the 78th Legislature, Regular Session, 2003, does not enact other legislation that becomes law and that amends Section 467.002, Government Code, to extend the sunset date of the Texas Lottery Commission. If the 78th Legislature, Regular Session, 2003, enacts legislation of that kind, this section has no effect.

SECTION 1.04. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS. (a) Section 2306.022, Government Code, is amended to read as follows:

Sec. 2306.022. APPLICATION OF SUNSET ACT. The Texas Department of Housing and Community Affairs is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this chapter expires September 1, 2005 [2003]. In the review of the department by the Sunset Advisory Commission, as required by this section, the sunset commission shall limit its review to the appropriateness of recommendations made by the sunset commission to the 78th Legislature and the extent to which the department has implemented laws enacted by the 77th Legislature in continuing the department. In the Sunset Advisory Commission's report to the 79th Legislature, the sunset commission may include any recommendations it considers appropriate.

(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 2306.022, Government Code, to extend the sunset date of the Texas Department of Housing and Community Affairs. If the 78th Legislature, Regular Session, 2003, enacts legislation of that kind, this section has no effect.

SECTION 1.05. TEXAS AFFORDABLE HOUSING CORPORATION. (a) Section 2306.5521, Government Code, is amended to read as follows:

Sec. 2306.5521. SUNSET PROVISION. The Texas State Affordable Housing Corporation is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the corporation is abolished and this subchapter expires September 1, 2005 [2003]. In the review of the corporation by the Sunset Advisory Commission, as required by this section, the sunset commission shall limit its review to the appropriateness of recommendations made by the sunset commission to the 78th Legislature. In the Sunset Advisory Commission's report to the 79th Legislature, the sunset commission may include any recommendations it considers appropriate.

(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 2306.5521, Government Code, to extend the sunset date of the Texas State Affordable Housing Corporation. If the 78th Legislature, Regular Session, 2003, enacts legislation of that kind, this section has no effect.

SECTION 1.06. TEXAS HIGHER EDUCATION COORDINATING BOARD.

(a) Section 61.0211, Education Code, is amended to read as follows:

Sec. 61.0211. SUNSET PROVISION. The Texas Higher Education Coordinating 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 chapter expires September 1, 2005 [2003]. In the review of the board by the sunset commission, as required by this section, the commission shall limit its review to the appropriateness of recommendations made by the commission to the 78th Legislature. In the commissions report to the 79th Legislature, the commission may include any recommendations it considers appropriate.

(b) This section only takes effect if the 78th Legislature, Regular Session, 2003, does not enact other legislation that becomes law and that amends Section 61.0211, education Code, to extend the sunset date of the Texas Higher Education Coordinating Board. If the 78th Legislature, Regular Session, 2003, enacts legislation of that kind, this section has no effect.

SECTION 2.06. REGIONAL EDUCATION SERVICE CENTERS. If the 78th Legislature, Regular Session, 2003, enacts legislation that becomes law and that makes regional education service centers subject to Chapter 325, Government Code (Texas Sunset Act), the comptroller of public accounts shall assist the Sunset Advisory Commission in its review. The comptroller shall conduct a review of the regional education service centers and report the results of the review to the Sunset Advisory Commission before March 1, 2004. The comptroller shall consult the Sunset Advisory Commission regarding the scope of the review. The report shall also be transmitted to the presiding officers of the standing committee in the senate and the house of representatives responsible for public education.

Explanation: These additions are needed to ensure that the Texas Lottery Commission, the lottery division, the Texas Department of Housing and Community Affairs, the Texas Affordable Housing Corporation, the Texas Higher Education Coordinating Board, and regional education service centers are continued in existence but are reviewed without unnecessary delay by the Sunset Advisory Commission.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2455 ADOPTED**

Senator Nelson called from the President's table the Conference Committee Report on **HB 2455**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2292 ADOPTED**

Senator Nelson called from the President's table the Conference Committee Report on **HB 2292**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

Senator Nelson moved to adopt the Conference Committee Report.

Senator Gallegos was recognized to ask questions of Senator Nelson.

Senator Ratliff moved to call the previous question on the Conference Committee Report on **HB 2292**.

The motion to call the previous question prevailed and the Conference Committee Report on **HB 2292** was adopted by a viva voce vote.

### RECORD OF VOTES

Senators Barrientos, Hinojosa, Lucio, Madla, Shapleigh, and Zaffirini asked to be recorded as voting "Nay" on the adoption of the Conference Committee Report on **HB 2292**.

### STATEMENT OF LEGISLATIVE INTENT

Senator Van de Putte submitted the following statement of legislative intent on **HB 2292**:

I authored Senate Floor Amendment No. 44 on **HB 2292** which was adopted on the Senate floor and is found in the Conference Committee Report as Section 2.204 on page 258 of the Conference Committee Report on **HB 2292** regarding the Texas Health Steps Comprehensive Care Program is intended to increase the availability of providers in the Comprehensive Care Program and reduce administrative burdens on those providers.

This section is not intended to increase costs to the Comprehensive Care Program over or above those appropriated in **HB 1**, but will ensure that children receiving services have adequate access to providers. The services provided under the Comprehensive Care Program allow medically fragile children to remain at home with their families rather than being housed in hospitals or institutions at greater cost to the state.

VAN DE PUTTE

### CONFERENCE COMMITTEE ON SENATE BILL 1862 DISCHARGED

On motion of Senator Bivins and by unanimous consent, the Senate conferees on **SB 1862** were discharged.

Question — Shall the Senate concur in the House amendments to **SB 1862**?

Senator Bivins moved to concur in the House amendments to **SB 1862**.

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

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 4 ADOPTED

Senator Ratliff called from the President's table the Conference Committee Report on **HB 4**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

Senator Hinojosa was recognized to ask questions of Senator Ratliff.

On motion of Senator Hinojosa and by unanimous consent, the following questions and answers to establish legislative intent regarding **HB 4** were ordered reduced to writing and printed in the *Senate Journal*:

**Senator Hinojosa:** Governor, the definitions section of Article 10 includes "affiliate" in the definition of a "health care provider." Are HMOs covered under the definition of affiliate? Is their liability also capped at \$250K?

**Senator Ratliff:** No, this bill and the caps do not apply to HMOs. Causes of action against HMOs are governed by Chapter 88 of the Civil Practice and Remedies Code, not by this new Chapter 74. Causes of action against HMOs are not health care liability claims as defined under this chapter.

**Senator Hinojosa:** On page 46 at lines 8-13, there is a definition of "professional or administrative services." Are claims involving those services automatically made "health care liability claims?" What about hiring a convicted felon or extending privileges to a drug-addicted physician or having a hazardous condition on your premises?

**Senator Ratliff:** No, those aren't made "health care liability claims" because if you look at the definition of "health care" (page 42, line 22) and "health care liability claim" (page 44, lines 10-17) the services must relate directly to the treatment of a particular patient. None of the examples you gave would qualify.

**Senator Hinojosa:** Governor, on page 61, lines 12-13, the bill adds in the words "obstetrical unit" and "surgical suite" to the new section on the standard of proof now required for emergency care. Does this mean that now the higher standard applies to emergency care in these areas of a hospital, not just the emergency room?

**Senator Ratliff:** Only if the same emergency that brought the patient into the ER still exists when the patient gets to the OR or Labor and Delivery area.

**Senator Hinojosa:** What about a case where the patient goes to the emergency room, is stabilized and then transferred to an OB unit or surgical suite and then another emergency occurs?

**Senator Ratliff:** No, this does not apply to emergencies that arise during surgery or labor and delivery. It only applies to emergencies that exist when the patient is brought to the ER and still exists when the patient goes immediately to an OB unit or surgical suite from the ER. This is on page 62, subsection (b)(1).

**Senator Hinojosa:** As a follow-up question, Governor, on page 61, line 19, the section applies to the plaintiff's burden of proof in emergency care cases. Does this mean that if a doctor's negligence causes the emergency, like in a case where a doctor is trying to intubate a child and blows air into the stomach instead of the lungs, and the case now becomes an emergency case, but only because of what the doctor did?

**Senator Ratliff:** No, obviously, if a doctor's negligence causes the emergency, this section does not apply. See page 62, subsection (b)(3).

**Senator Hinojosa:** The existing law on immunity for emergency care (page 59, lines 22-23) says that someone is liable if they are "wilfully or wantonly negligent," and the new provision (page 61, line 9) speaks of "wilful and wanton negligence." Is there any change to the standard?

**Senator Ratliff:** No, the standard is the same. Both wilful and wanton negligence are covered, but this is basically a gross negligence standard. You don't have to prove intent.



**Senator Hinojosa:** Section 74.151(b)(1) (page 59, line 24 through page 60, line 1) says that the immunity given by 74.151(a) doesn't apply if care is rendered "for or in expectation of remuneration" and then the new language added by the bill says that "being legally entitled to receive remuneration shall not determine whether or not the care was rendered for or in anticipation of remuneration." You don't intend to let someone who is legally entitled to bill the patient decide after they've committed negligence to waive their charges after the fact, do you?

**Senator Ratliff:** No, of course not. The intent not to accept any remuneration of any kind must be evident before the emergency care is rendered. This is only intended to apply to the true Good Samaritan.

**Senator Hinojosa:** Governor, on page 91, line 13, new Sec. 84.0065 of the bill, subsection (a)(1) states that the acknowledgement that the patient signs must state that the hospital is providing care that is not administered for or in expectation of compensation. This doesn't say to whom the care is provided; the hospital could be providing care to other people for free, while I'm paying for my care and still get limited liability.

**Senator Ratliff:** No, the acknowledgement should mean that the hospital is providing my care for free and that's what they get limited liability for. Just because they're providing someone else's care for free doesn't give them limited liability.

**Senator Hinojosa:** Governor, on page 106, lines 6-8, does this provision mean that a patient can't recover future damages?

**Senator Ratliff:** No, it just means that economic damages are limited to those actually incurred. You can't recover more than you've actually paid or been charged for your health care expenses in the past or what the evidence shows you will probably be charged in the future.

**Senator Hinojosa:** In the authorization a patient who brings a suit has to sign when they send notice of intent to sue a health care provider, there is a place for the patient to object to providing records that aren't relevant to the case (page 50, lines 15-25). What about records that may not be irrelevant but are nevertheless privileged under the law, like mental health records?

**Senator Ratliff:** Nothing in this section is intended to change the law of privilege so the patient could still decline to authorize the disclosure of privileged records until the court had ruled on the patient's objection.

**Senator Hinojosa:** When a defendant names a responsible third party, as I understand it, the plaintiff has 60 days to bring the third party into the suit, even if limitations would otherwise have run against that person (Sec. 33.004(e), page 20, line 27 - page 21, line 7). Is that true in a medical malpractice claim too, because on page 63 of the bill it seems to say that the two-year statute in those cases applies notwithstanding any other law?

**Senator Ratliff:** Yes, if health care providers are going to have the benefit of the designation of responsible third parties, then they have to abide by the same rules as everyone else. This 60-day provision would apply in health care liability claims.

Senator Duncan was recognized to ask questions of Senator Ratliff.

On motion of Senator Duncan and by unanimous consent, the following question and answer to establish legislative intent regarding **HB 4** were ordered reduced to writing and printed in the *Senate Journal*:

**Senator Duncan:** Chairman Ratliff, is it your intent that Article 21 of the bill, adding 75.002(h) to the Civil Practice and Remedies Code, shall not affect any existing legal remedies for actions regarding odors?

**Senator Ratliff:** Yes, Article 21 is not intended to affect any existing legal remedies for actions regarding odors.

Senator Hinojosa was recognized to ask questions of Senator Duncan.

On motion of Senator Hinojosa and by unanimous consent, the following questions and answers to establish legislative intent regarding **HB 4** were ordered reduced to writing and printed in the *Senate Journal*:

**Senator Hinojosa:** I would like to clarify a couple of points relating to the rebuttable presumption created by Section 82.008 of the bill. How does the presumption work in a case where the manufacturer complied with all federal standards that exist for a product but no standard exists that relates specifically to the defect that has been alleged by a plaintiff?

**Senator Duncan:** The presumption created by the bill would not apply in that case. The bill provides that the presumption comes into play only when there is a mandatory federal standard that governed the product risk that allegedly caused harm. The intent of this language is to have the presumption apply only when there is a federal standard that is designed to regulate the aspect of the manufacture or design of the product that the plaintiff claims is defective. The intent of the bill is to ensure that there is a relationship between the federal standard in question and the defect being alleged by the plaintiff. If there is not a relationship, the presumption will not apply.

**Senator Hinojosa:** I read the bill to also provide that even if there is a federal standard that applies to alleged defect that the plaintiff is complaining about, the plaintiff can rebut the presumption by showing that the federal standard is inadequate to protect the public from unreasonable risk of injury.

**Senator Duncan:** That's correct.

**Senator Hinojosa:** What happens if the manufacturer learns of a defect in a product after it is sold but fails to inform the federal government or the public of the problem? Does the presumption in the bill give the manufacturer any additional protection in that case?

**Senator Duncan:** No. The purpose of the government standards defense is to provide manufacturers some protection where they comply with mandatory federal standards that are specifically designed to address that alleged defect in question in a lawsuit. However, the bill does not create immunity for a manufacturer. There will only be additional protection if the manufacturer complied with the mandatory standard and the standard was, in fact, adequate to accomplish its purpose. The bill is intended to focus the debate where it should be, that is, on whether the mandatory

standard is adequate. If the standard is adequate then, by definition, the product is not defective with respect to that aspect of the product. If the standard is not adequate, then the bill offers the manufacturer no additional protection because the presumption is rebutted, and the factfinder may then determine whether the product is defective as the plaintiff has alleged. If the manufacturer learns of information that demonstrates that the standard is not, in fact, adequate and fails to share that information with the federal government, this evidence can be presented to the factfinder to show that the standard is not adequate and thereby rebut the presumption. The bill is intended to prevent having an anomalous situation where a standard is determined to be adequate, but the product is found to be defective with respect to the risk covered by the standard. If the standard is adequate and the product complies with the standard, it is not defective. If the standard is not adequate, there is no presumption and the factfinder will determine whether there is a defect.

**Senator Hinojosa:** How does this part of the bill affect Texas law with respect to no post-sale duty to warn? Does it create a conflict?

**Senator Duncan:** No. If the manufacturer has relevant information concerning the adequacy of the standard and fails to disclose that information or misrepresents that information, the manufacturer will not get the benefit of the presumption. This is expressly set out in the bill as a way of rebutting the presumption and it does not matter whether the failure to disclose occurred before or after the product was sold. This does not create a post-sale duty to warn, but it does encourage manufacturers to disclose information they obtain post-sale if they want to have the benefit of the protections provided in the bill. If they do not disclose this information to the appropriate federal agency, they will not get the benefit of the presumption.

**Senator Hinojosa:** How does this bill affect existing federal notification requirements, such as those governing vehicles and tires?

**Senator Duncan:** It does not affect any such requirements under federal law at all. However, because a manufacturer will lose the benefit of the presumption created by this bill if the manufacturer fails to disclose information that is relevant to a federal agency's determination of the adequacy of a safety standard, it is likely that, in most cases, a manufacturer will not get the benefit of the presumption if the manufacturer has failed to comply with federal notification requirements. Also, information that is required to be disclosed by federal law is quite likely to be information that is also relevant to a factfinder's determination of the adequacy of the safety standard in question.

Senator Gallegos was recognized to ask questions of Senator Ratliff.

On motion of Senator Gallegos and by unanimous consent, the following questions and answers to establish legislative intent regarding **HB 4** were ordered reduced to writing and printed in the *Senate Journal*:

**Senator Gallegos:** Senator, would you agree that we have been passing tort reform since the malpractice bill was passed in 1977?

**Senator Ratliff:** Well I haven't, Senator, but I have been passing it since 1989, or at least trying to pass some since 1989.

**Senator Gallegos:** And throughout this entire session we have been solving an insurance problem by taking away rights from our constituents?

**Senator Ratliff:** Well I'm not sure I would characterize it that way, Senator, but it's certainly your prerogative.

**Senator Gallegos:** Do you consider this to be the end?

**Senator Ratliff:** Senator, I certainly can't answer that. I will just say this to you, I did my best, after listening to 61 hours of testimony, to try to be fair to both sides or to all sides of this issue. I dare say that there are some things we tried to do that may not work, that may not have accomplished our purpose. We may have gone too far in some places and it may be that we have to come back and fine-tune this. I hope that we have struck a balance here where we don't have to do major tort reform in the future and we can only fine-tune what we have done. That would be my fondest hope.

**Senator Gallegos:** What if we go home and hear from our constituents that they don't like doctors getting away with negligent conduct?

**Senator Ratliff:** Senator, I think that's just like every law we pass here. If we pass laws and we go home and we live with them for a year or two and the people of this state believe that they are not working, that's why we have to come back every two years. We got to come back and fix it.

**Senator Gallegos:** If we have gone too far, will you come back in two years and help try to fix the problem?

**Senator Ratliff:** Senator, I would certainly commit to you that if I believe, after this goes into place, if I hear enough evidence to convince me that we have gone farther than we should have in trying to protect the medical community so that we can all continue to have medical services, if I come to that conclusion then I would certainly come back here and help you try to fix it.

On motion of Senator Ratliff, the Conference Committee Report on **HB 4** was adopted 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, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Barrientos, Gallegos, Shapleigh, Van de Putte.

#### **SENATE RESOLUTION 1044**

Senator Janek offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **SB 463**, relating to structures that constitute insurable property under the Texas Windstorm Insurance Association, to consider and take action on the following matter:

(1) Senate Rule 12.03(1) is suspended to permit the committee to change Section 1 of the bill to read as follows:

SECTION 1. Subsection (f), Section 3, Article 21.49, Insurance Code, is amended to read as follows:

(f) "Insurable Property" means immovable property at fixed locations in a catastrophe area or corporeal movable property located therein (as may be designated in the plan of operation) which property is determined by the Association, pursuant to the criteria specified in the plan of operation to be in an insurable condition against windstorm, hail and/or fire and explosion as appropriate, as determined by normal underwriting standards; provided, however, that insofar as windstorm and hail insurance is concerned, any structure located within a catastrophe area, commenced on or after the 30th day following the publication of the plan of operation, not built or continuing in compliance with building specifications set forth in the plan of operation shall not be an insurable risk under this Act except as otherwise provided under this Act. A structure, or an addition thereto, which is constructed in conformity with plans and specifications that comply with the specifications set forth in the plan of operation at the time construction commences shall not be declared ineligible for windstorm and hail insurance as a result of subsequent changes in the building specifications set forth in the plan of operation. Except as otherwise provided by this subsection, if [When] repair of damage to a structure involves replacement of items covered in the building specifications as set forth in the plan of operation, such repairs must be completed in a manner to comply with such specifications for the structure to continue within the definition of Insurable Property for windstorm and hail insurance. If repair of damage to a structure is based on a direct loss and claim the amount of which is equal to less than five percent of the amount of total property coverage on the structure, the repairs may be completed in a manner that returns the structure to its condition immediately before the loss without affecting the eligibility of the structure to qualify as insurable property. Nothing in this Act shall preclude special rating of individual risks as may be provided in the plan of operation. For purposes of this Act, all structures which are located within those areas designated as units under the federal Coastal Barrier Resources Act (Public Law 97-348) and for which construction has commenced on or after July 1, 1991 shall not be considered insurable property.

Explanation: The change in SECTION 1 is necessary to remove language designating certain structures as insurable property by the Texas Windstorm Insurance Association if a building permit or plat was filed with the municipality, county, or United States Army Corps of Engineers before the effective date of the bill and to provide that if a direct loss occurs, and the amount of repair constitutes five percent or less of the value of the property, the insurability of the property is not affected if the repairs are properly made.

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

SECTION 2. Subdivision (9), Subsection (h), Section 8, Article 21.49, Insurance Code, is amended to read as follows:

(9) A rate established and authorized by the commissioner under this subsection may not reflect an average rate change that is more than 10 percent higher or lower than the rate for commercial or 10 percent higher or lower than the rate for noncommercial windstorm and hail insurance in effect on the date the filing is made.

The rate may not reflect a rate change for an individual rating class that is 15 percent higher or lower than the rate for that individual class in effect on the date the filing is made. The commissioner may, after notice and hearing, suspend this subdivision upon a finding that a catastrophe loss or series of occurrences resulting in losses in the catastrophe area justify a need to assure rate adequacy in the catastrophe area and also justify a need to assure availability of insurance outside the catastrophe area. [~~This subdivision expires December 31, 2005.~~]

Explanation: The change in SECTION 2 is necessary to remove the expiration of Subsection (h) of Section 8, which establishes certain limitations on the amount of the rate the commissioner sets and requires the commissioner to justify the rate if the rate is not set within those limitations.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 463 ADOPTED**

Senator Janek called from the President's table the Conference Committee Report on **SB 463**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

### **SENATE RESOLUTION 1052**

Senator Jackson offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **SB 14**, relating to certain insurance rates, forms, and practices; providing penalties, to consider and take action on the following matter:

Senate Rule 12.03, Subdivision (4), is suspended to permit the committee to add the following new subdivision to Section 4(c), Article 5.142, Insurance Code, as added by the bill:

(2) a "new insurer" is defined as an insurer that, as of the effective date of S.B. 14, Acts of the 78th Legislature, Regular Session, 2003, is not authorized to write residential property insurance in this state and not affiliated with another insurer that is authorized to write and is writing residential property insurance as of the effective date of S.B. 14, Acts of the 78th Legislature, Regular Session, 2003;

Explanation: This subsection is necessary to clarify certain filing requirements for certain insurers that were not writing residential property insurance or that were not affiliated with an insurer that was writing residential property insurance on the effective date of the bill.

Senate Rule 12.03, Subdivision (4), is suspended to permit the committee to add the following new article to the bill:

#### **ARTICLE 16. RULEMAKING**

SECTION 16.01. Section 36.001, Insurance Code, is amended to read as follows:

Sec. 36.001. ~~[RULES FOR]~~ GENERAL RULEMAKING AUTHORITY ~~[AND UNIFORM APPLICATION]~~. (a) The commissioner may adopt any rules necessary and appropriate to implement ~~[for the conduct and execution of]~~ the powers and duties of the department under this code and other laws of this state ~~[only as authorized by statute]~~.

(b) Rules adopted under this section must have general and uniform application.

~~[(c) The commissioner shall publish the rules in a format organized by subject matter. The published rules shall be kept current and be available in a form convenient to any interested person.]~~

SECTION 16.02. Section 36.004, Insurance Code, is amended to read as follows:

Sec. 36.004. COMPLIANCE WITH NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS REQUIREMENTS. Except as provided by Section 36.005, the ~~[The]~~ department may not require an insurer to comply with a rule, regulation, directive, or standard adopted by the National Association of Insurance Commissioners, including a rule, regulation, directive, or standard relating to policy reserves, unless application of the rule, regulation, directive, or standard is expressly authorized by statute and approved by the commissioner.

SECTION 16.03. Subchapter A, Chapter 36, Insurance Code, is amended by adding Section 36.005 to read as follows:

Sec. 36.005. INTERIM RULES TO COMPLY WITH FEDERAL REQUIREMENTS. (a) The commissioner may adopt rules to implement state responsibility in compliance with a federal law or regulation or action of a federal court relating to a person or activity under the jurisdiction of the department if:

(1) federal law or regulation, or an action of a federal court, requires:

(A) a state to adopt the rules; or

(B) action by a state to ensure protection of the citizens of the state;

(2) the rules will avoid federal preemption of state insurance regulation; or

(3) the rules will prevent the loss of federal funds to this state.

(b) The commissioner may adopt a rule under this section only if the federal action requiring the adoption of a rule occurs or takes effect between sessions of the legislature or at such time during a session of the legislature that sufficient time does not remain to permit the preparation of a recommendation for legislative action or permit the legislature to act. A rule adopted under this section shall remain in effect only until 30 days following the end of the next session of the legislature unless a law is enacted that authorizes the subject matter of the rule. If a law is enacted that authorizes the subject matter of the rule, the rule will continue in effect.

SECTION 16.04. Article 3.42(p), Insurance Code, is amended to read as follows:

(p) The commissioner is hereby authorized to adopt ~~[such]~~ reasonable rules ~~[and regulations]~~ as ~~[are]~~ necessary to implement and accomplish the ~~[specific provisions of this Article and are within the standards and]~~ purposes of this Article. The commissioner shall adopt rules under this Article in compliance with Chapter 2001, Government Code ~~[(Administrative Procedure Act)]~~. A rule adopted under this Article may not be repealed or amended until after the first anniversary of the adoption of the rule unless the commissioner finds that it is in the significant and material interests of

the citizens of this state or that it is necessary as a result of legislative enactment to amend, repeal, or adopt a [in a public hearing after notice that there is a compelling public need for the amendment or repeal of the] rule or part of a [the] rule.

SECTION 16.05. Section 36.002, Insurance Code, is repealed.

Explanation: This article is necessary to broaden the commissioner's general rulemaking authority and to give the commissioner the authority to adopt certain interim rules.

Senate Rule 12.03, Subdivision (4), is suspended to permit the committee to add the following new article to the bill:

ARTICLE 20A. INSURER INTERESTS IN CERTAIN REPAIR FACILITIES

SECTION 20A.01. Section 2306.001(4), Occupations Code, as added by H.B. 1131, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(4) "Insurer" means an insurer authorized by the Texas Department of Insurance to write motor vehicle insurance in this state, including a county mutual insurance company, a Lloyd's plan, and a reciprocal or interinsurance exchange if that insurer owns an interest in a repair facility in this state. The term includes an entity that is an affiliate of an insurer as described by Section 823.003, Insurance Code.

SECTION 20A.02. Section 2306.001(4), Occupations Code, as amended by this article, is contingent on the passage of H.B. 1131, Acts of the 78th Legislature, Regular Session. If that legislation does not become law, Section 2306.001(4), Occupations Code, as amended by this article, has no effect.

Explanation: This article is necessary to clarify that an insurer who owns an interest in a motor vehicle repair facility in this state is subject to Chapter 2306, Occupations Code.

Senate Rule 12.03, Subdivision (4), is suspended to permit the committee to add the following new section to the bill:

SECTION 21.405. Subchapter A, Chapter 912, Insurance Code, is amended by adding Section 912.005 to read as follows:

Sec. 912.005. LIMITATION ON TRANSFER OF BUSINESS TO COUNTY MUTUAL INSURANCE COMPANY. An insurer may not transfer more than 10 percent of the insurer's insurance policies to a county mutual insurance company without the prior approval of the commissioner.

Explanation: This section is necessary to prevent insurers from shifting business into markets that are less strictly regulated.

Senate Rule 12.03, Subdivision (2), is suspended to permit the committee to omit text which is not in disagreement:

SECTION 21.47. The following laws are repealed:

- (1) Articles 5.03–2, 5.03–3, 5.03–4, and 5.03–5, Insurance Code;
- (2) Articles 5.26(h), 5.33C, and 5.50, Insurance Code;
- (3) Section 5(b), Article 5.13–2, Insurance Code;
- (4) Section 4C, Article 5.73, Insurance Code;
- (5) Article 5.33B, Insurance Code, as added by Chapter 337, Acts of the 74th Legislature, Regular Session, 1995;
- (6) Articles 5.14, 5.15, and 5.15B, Insurance Code;
- (7) Article 5.97(e), Insurance Code; and



(8) Section 4(b)(2), Article 21.49–3, Insurance Code.

Explanation: This section is necessary to preserve certain hearing requirements for the operation of the flexible rating program under Article 5.101, Insurance Code.

Senate Rule 12.03, Subdivision (4), is suspended to permit the committee to add the following new section to the bill:

SECTION 21.48. Article 5.33A, Insurance Code, is repealed.

Explanation: This section is necessary to conform the bill to the elimination of certain insurance premium discounts.

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

Present-not voting: Brimer.

**(President in Chair)**

**(Senator Brimer in Chair)**

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 14 ADOPTED**

Senator Jackson called from the President's table the Conference Committee Report on **SB 14**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Jackson, the Conference Committee Report was adopted by the following vote: Yeas 26, Nays 4, Present-not voting 1.

Yeas: Armbrister, Averitt, Bivins, Deuell, Duncan, Ellis, Estes, Fraser, Harris, Hinojosa, Jackson, Janek, Lindsay, Lucio, Madla, Nelson, Ogden, Ratliff, Shapiro, Staples, Van de Putte, Wentworth, West, Whitmire, Williams, Zaffirini.

Nays: Barrientos, Carona, Gallegos, Shapleigh.

Present-not voting: Brimer.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

June 1, 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 ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:**

**HB 1365** (House adopts ccr by a vote of 132 yeas, 11 nays, 4 pnv)

**HB 2020** (non-record vote)

**HB 2424** (non-record vote)

**HB 3015** (House adopts ccr by a vote of 100 yeas, 43 nays, 0 pnv)

**HB 3184** (House adopts ccr by a vote of 142 yeas, 1 nay, 1 pnv)

**HB 3442** (House adopts ccr by a vote of 144 yeas, 1 nay, 1 pnv)

**SB 264** (non-record vote)

**SB 671** (House adopts ccr by a vote of 147 yeas, 0 nays, 1 pnv)

**SB 1369** (non-record vote)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

### SENATE CONCURRENT RESOLUTION 65

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

WHEREAS, The conference committee report for **HB 3588** contains technical errors that should be corrected; and

WHEREAS, Those corrections should be made after the bill has been adopted by the senate and the house of representatives and when the bill is enrolled; now, therefore, be it

RESOLVED by the 78th Legislature of the State of Texas, That the enrolling clerk of the house be instructed to correct House Bill No. 3588 as follows:

1. On page 14, line 13, insert a comma between "property" and "other".
2. On page 14, line 15, insert a comma between "facility" and "that".
3. On page 14, line 18, insert "An option to purchase property" between "property." and "Property" and strike "Property".
4. On page 25, line 10, insert a comma between "chapter" and "revenue".
5. On page 27, strike lines 3 through 16.
6. On page 33, line 9, strike "municipality" and insert "authority".
7. On page 37, line 13, strike "in this state" and insert "in the authority's area of jurisdiction".
8. Page 38, line 3, insert ", subject to the transportation project being in the authority's area of jurisdiction" between "department" and the period.
9. On page 57, strike lines 5 through 8 and on line 9, strike "(c)" and insert "(b)".
10. On page 58, strike the sentence on line 8 of Section 370.163, that starts "An authority" and ends with "361.165".
11. On page 70, line 8, between "(j)" and "An" insert the following language: "If the transportation project is a project other than a public utility facility,".
12. On page 70, line 9, delete "other than a public utility facility".
13. On page 70, line 10, delete "other than a public".
14. On page 70, line 11, delete "utility facility".
15. On page 122, line 23, strike "amendment" and insert "section".
16. On page 125, line 11, strike "expand" and insert "expend".
17. On page 149, line 14, insert "each calendar year" between "collector" and "shall".
18. On page 149, lines 5 through 12, reinstate the deleted text and on line 6, insert "and this chapter" between "Code," and "is".

19. On page 149, line 16, insert "in the preceding calendar year" between "chapter" and the period.

20. On page 151, line 5, insert "each calendar year" between "collector" and "shall".

21. On page 151, line 7, insert ", in the preceding calendar year" between "Code" and the period.

22. On page 297, strike line 26 through page 299, line 2.

23. On page 307, strike lines 4 through 17 and insert the following:

"SECTION 20.02. (a) The comptroller shall establish the Texas Mobility Fund debt service account as a dedicated account within the general revenue fund.

(b) Notwithstanding Section 780.002(a) and (b), Health and Safety Code, as added by this Act, of the money allocated to the undedicated portion of the general revenue fund by Section 780.002(a), Health and Safety Code, as added by this Act, other than money that may only be appropriated to the Department of Public Safety, in fiscal year 2004 the comptroller shall deposit that money to the credit of the Texas Mobility Fund debt service account which is subject to the provisions of Subsection (d).

(c) Notwithstanding Section 542.4031(g)(1), Transportation Code, as added by this Act, of the money allocated to the undedicated portion of the general revenue fund in Section 542.4031(g)(1), Transportation Code, in fiscal year 2004 the comptroller shall deposit that money to the credit of the Texas Mobility Fund debt service account which is subject to the provisions of Subsection (d).

(d) Funds deposited to the Texas Mobility Fund debt service account pursuant to Subsections (b) and (c) may be transferred to the Texas Mobility Fund upon certification by the Texas Transportation Commission to the comptroller that a payment is due under an obligation pursuant to Article 3, Section 49-k of the Texas Constitution. Funds in the Texas Mobility Fund debt service account are not appropriated in the state fiscal year ending August 31, 2004."

24. On page 307, line 26, at the end of Section 20.03, add "Section 51.607, Government Code, as added by Senate Bill 325, 78th Legislature, Regular Session, does not apply to court costs imposed under this Act."

OGDEN

The resolution was read.

On motion of Senator Ogden, the resolution was considered immediately and was adopted without objection.

### CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3588 ADOPTED

Senator Ogden called from the President's table the Conference Committee Report on **HB 3588**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Ogden, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**BILLS SIGNED**

The Presiding Officer announced the signing of the following enrolled bills in the presence of the Senate after the captions had been read:

**HB 736, HB 1108, HB 1268, HB 1297, HB 1534, HB 1691, HB 1858, HB 1941, HB 1971, HB 2006, HB 2036, HB 2249, HB 2485, HB 2500, HB 2522, HB 2866, HB 2895, HB 2931, HB 3061, HB 3325, HB 3419, HB 76, HB 532, HB 599, HB 820, HB 944, HB 1097, HB 1660, HB 1833, HB 1997, HB 2240, HB 2350, HB 2912, HB 2933, HB 3011, HB 3017, HB 3141, HB 3486, HB 3534.**

**(President in Chair)**

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3015 ADOPTED**

Senator Shapiro called from the President's table the Conference Committee Report on **HB 3015**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Shapiro, the Conference Committee Report was adopted by the following vote: Yeas 17, Nays 14.

Yeas: Armbrister, Averitt, Bivins, Brimer, Carona, Deuell, Duncan, Estes, Harris, Janek, Lindsay, Nelson, Ogden, Ratliff, Shapiro, Williams, Zaffirini.

Nays: Barrientos, Ellis, Fraser, Gallegos, Hinojosa, Jackson, Lucio, Madla, Shapleigh, Staples, Van de Putte, Wentworth, West, Whitmire.

**STATEMENT OF LEGISLATIVE INTENT**

Senator Ellis submitted the following statement of legislative intent on **HB 3015**:

The conference committee has approved TEXAS Grant funding of \$324 million for the next biennium. While this is a significant increase over the amount awarded in grants this biennium, it falls far short of the amount needed to make awards to all eligible students. I also understand that an additional \$50 million will be put into the program from the federal money being handed down to Texas.

**HB 3015** will permit universities to raise their tuition substantially. This will make it more difficult for middle class families to afford to send their children to these public institutions. A key provision of the bill, as passed by the Senate, is a setaside of 40 percent of the increase that institutions will charge to be used for undergraduate work-study at the institutions, for the new B-On-time Loan program, and for TEXAS Grants.

I amended **HB 3015** on the floor to include TEXAS Grants in the set aside to provide another source of funds for this important program. It is vital that we fund this program adequately. My intent with this amendment is to increase the amount the coordinating board will have to allocate and award for TEXAS Grants in the next biennium. This setaside will increase the \$324 million already appropriated to the board and will get us closer to meeting the needs of all eligible students.

ELLIS

(Senator Armbrister in Chair)

**CONFERENCE COMMITTEE REPORT ON  
HOUSE JOINT RESOLUTION 28 ADOPTED**

Senator Lucio called from the President's table the Conference Committee Report on **HJR 28**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Lucio, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**SENATE RESOLUTION 1038**

Senator Barrientos offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That the Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **HB 3184**, relating to the financing, construction, improvement, maintenance, and operation of toll facilities by the Texas Department of Transportation, to consider and take action on the following matter:

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

SECTION 78. (a) Subchapter H, Chapter 201, Transportation Code, is amended by adding Section 201.6011 to read as follows:

Sec. 201.6011. INTERNATIONAL TRADE CORRIDOR PLAN. (a) To the extent possible, the department shall coordinate with appropriate entities to develop an integrated international trade corridor plan. The plan must:

(1) include strategies and projects to aid the exchange of international trade using the system of multiple transportation modes in this state; and

(2) assign priorities based on the amount of international trade, measured by weight and value, using the transportation systems of this state, including:

(A) border ports of entry;

(B) commercial ports;

(C) inland ports;

(D) highways;

(E) pipelines;

(F) railroads; and

(G) deepwater gulf ports.

(b) The department shall report on the implementation of this section to the presiding officer of each house of the legislature no later than December 1, 2004.

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

SECTION 79. (a) Section 456.022, Transportation Code, is amended to read as follows:

Sec. 456.022. FORMULA ALLOCATION [~~BY CATEGORIES~~]. The commission shall adopt rules establishing a formula allocating funds among individual eligible public transportation providers. The formula may take into account a transportation provider's performance, the number of its riders, the need of

residents in its service area for public transportation, population, population density, land area, and other factors established by the commission. ~~[Under the formula program the commission shall allocate:~~

~~[(1) 50 percent of the money to municipalities that are:~~

~~[(A) designated recipients in urbanized areas or transit providers eligible under Section 456.003 and not served by a transit authority; and~~

~~[(B) designated recipients that are not included in a transit authority but are located in urbanized areas that include one or more transit authorities and received state transit funding during the biennium that ended August 31, 1997; and~~

~~[(2) 50 percent of the money to designated recipients in nonurbanized areas.]~~

(b) Section 456.024, Transportation Code, is repealed.

(c) This section takes effect September 1, 2004.

Explanation: These additions are necessary to allow the Texas Transportation Commission to establish a formula for distribution of state grants to public transportation providers and to allow the Texas Department of Transportation to develop an international trade corridor plan to aid the exchange of international trade.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

#### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 3184 ADOPTED**

Senator Barrientos called from the President's table the Conference Committee Report on **HB 3184**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Barrientos, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

#### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 970 ADOPTED**

Senator Shapleigh called from the President's table the Conference Committee Report on **SB 970**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

#### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1566 ADOPTED**

Senator Ratliff called from the President's table the Conference Committee Report on **HB 1566**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 76 ADOPTED**

Senator Zaffirini called from the President's table the Conference Committee Report on **SB 76**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 474 ADOPTED**

Senator Lucio called from the President's table the Conference Committee Report on **SB 474**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 894 ADOPTED**

Senator Bivins called from the President's table the Conference Committee Report on **SB 894**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**STATEMENT OF LEGISLATIVE INTENT**

Senator Barrientos submitted the following statement of legislative intent on **SB 894**:

The Conference Committee Report amends this bill by striking the section that requires the Texas Education Agency to publish a longitudinal dropout rate in their annual report using a particular formula.

This portion of **SB 894** is important because it requires a comprehensive formula to determine the longitudinal dropout rate in this state. While it is necessary for Texas to use the national standards for determining the dropout rate (**SB 186**, by Janek), it is equally important to track and determine which students are dropping out of school through the course of their high school years (9-12 grades). This amendment may not be used for accountability purposes, therefore will not have any impact on additional dropout count measures, and would be an important contribution in our efforts to lower the dropout rate.

BARRIENTOS

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 471 ADOPTED**

Senator Lucio called from the President's table the Conference Committee Report on **HB 471**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**SENATE RESOLUTION 1015**

Senator Harris offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **HB 1493**, relating to the foreclosure of property and the authority of a mortgage servicer to administer the foreclosure on behalf of a mortgagee, to consider and take action on the following matter:

Senate Rule 12.03(1) is suspended to permit the committee to amend text that is not in disagreement in Section 51.009, Property Code, as added by the bill, by adding the phrase "except as to warranties of title", so that the section reads as follows:

Sec. 51.009. FORECLOSED PROPERTY SOLD "AS IS." A purchaser at a sale of real property under Section 51.002:

(1) acquires the foreclosed property "as is" without any expressed or implied warranties, except as to warranties of title, and at the purchaser's own risk; and

(2) is not a consumer.

Explanation: The changed text is necessary to clarify that any warranties of title granted in a foreclosure sale under Section 51.002, Property Code, are valid.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1493 ADOPTED**

Senator Harris called from the President's table the Conference Committee Report on **HB 1493**. The Conference Committee Report was filed with the Senate on Friday, May 30, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 826 ADOPTED**

Senator Whitmire called from the President's table the Conference Committee Report on **SB 826**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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



**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1131 ADOPTED**

Senator Harris called from the President's table the Conference Committee Report on **SB 1131**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

June 1, 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 284**, Instructing the enrolling clerk of the house to make technical corrections to H.B. 2319.

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 4** (House adopts ccr by a vote of 110 yeas, 34 nays, 2 pnv)

**HB 2971** (House adopts ccr by a vote of 116 yeas, 27 nays, 3 pnv)

**SB 286** (non-record vote)

**SB 463** (House adopts ccr by a vote of 144 yeas, 0 nays, 2 pnv)

**SB 976** (non-record vote)

**SB 1828** (non-record vote)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**SENATE RESOLUTION 972**

Senator Shapiro offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **HB 9**, relating to homeland security, to consider and take action on the following matter:

Senate Rule 12.03(1) is suspended to permit the committee to change the effective date of the bill to read as follows:

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.

Explanation: This change is necessary to allow the bill to take effect immediately.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 9 ADOPTED**

Senator Shapiro called from the President's table the Conference Committee Report on **HB 9**. The Conference Committee Report was filed with the Senate on Friday, May 30, 2003.

On motion of Senator Shapiro, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**(Senator Averitt in Chair)**

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 638 ADOPTED**

Senator Armbrister called from the President's table the Conference Committee Report on **HB 638**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Armbrister, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1272 ADOPTED**

Senator Armbrister called from the President's table the Conference Committee Report on **SB 1272**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 631 ADOPTED**

Senator Harris called from the President's table the Conference Committee Report on **SB 631**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**SENATE RESOLUTION 1048**

Senator Armbrister offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That the Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **HB 2424**, relating to technical changes to taxes and fees administered by the comptroller and providing penalties, to consider and take action on the following matter:

(1) Senate Rule 12.03(2) is suspended to permit the committee to omit text that amends Sections 153.013(a), 153.117, 153.120, 153.205 as amended by Chapters 1263 and 1444, Acts of the 77th Legislature, Regular Session, 2001, 153.208(d), 153.219(c), 153.222(a), 153.223, and 153.403, Tax Code, to impose certain administrative requirements on certain users and suppliers of motor fuels.

Explanation: This omission is necessary to conform to the repeal of Chapter 153, Tax Code, and the adoption of new Chapter 162, Tax Code, by H.B. No. 2458, Acts of the 78th Legislature, Regular Session, 2003.

(2) Senate Rule 12.03(4) is suspended to permit the committee to add SECTION 105 to the bill to read as follows:

SECTION 105. Contingent on H.B. No. 2458, Acts of the 78th Legislature, Regular Session, 2003, being enacted and becoming law, and effective January 1, 2004, Sections 162.405(a) and (d), Tax Code, are amended to read as follows:

(a) An offense under Section 162.403(1), (2), (3), (4), (5), (6), [~~7~~] or (8) is a Class C misdemeanor.

(d) An offense under Section 162.403~~(7)~~, (22), (23), (24), (25), (26), (27), (28), or (29) is a felony of the third degree.

Explanation: This addition is necessary to ensure that an offense under Section 162.403(7), Tax Code, as added by H.B. No. 2458, Acts of the 78th Legislature, Regular Session, 2003, is classified in accordance with the severity of the offense.

(3) Senate Rule 12.03(4) is suspended to permit the committee to add SECTION 107 to the bill to read as follows:

SECTION 107. (a) Section 141.008(a-1), Local Government Code, as added by H.B. No. 2425, Acts of the 78th Legislature, Regular Session, 2003, is repealed.

(b) If H.B. No. 2425, Acts of the 78th Legislature, Regular Session, 2003, does not become law, this section has no effect.

Explanation: This addition is necessary to eliminate a requirement that municipalities make certain payroll deductions for municipal employees.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2424 ADOPTED**

Senator Armbrister called from the President's table the Conference Committee Report on **HB 2424**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Armbrister, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**SENATE CONCURRENT RESOLUTION 67**

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

WHEREAS, **HB 2424** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

WHEREAS, The bill contains technical errors that should be corrected; now, therefore, be it

RESOLVED by the 78th Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to correct House Bill No. 2424 by striking SECTION 107 of the bill.

ARMBRISTER

The resolution was read.

On motion of Senator Armbrister, the resolution was considered immediately and was adopted without objection.

**(Senator Armbrister in Chair)**

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3546 ADOPTED**

Senator Lucio called from the President's table the Conference Committee Report on **HB 3546**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1303 ADOPTED**

Senator Madla called from the President's table the Conference Committee Report on **SB 1303**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Madla, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 755 ADOPTED**

Senator Ratliff called from the President's table the Conference Committee Report on **SB 755**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Ratliff, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE JOINT RESOLUTION 85 ADOPTED**

Senator Estes called from the President's table the Conference Committee Report on **HJR 85**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Estes, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**SENATE RESOLUTION 1031**

Senator Estes offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **HB 2593**, relating to winery permits, to consider and take action on the following matters:

(1) Senate Rule 12.03(1) is suspended to permit the committee to add "Except as provided by Section 16.011," to amended Section 16.01(a), Alcoholic Beverage Code.

Explanation: The language is necessary to clarify that there is an exception to a winery's authorized activities and to conform to language added by the bill relating to the authorized activities of a winery located in a dry area.

(2) Senate Rules 12.03(1) and (2) are suspended to permit the committee to amend and omit text to Section 16.011, Alcoholic Beverage Code, as added by the bill, so that the section reads as follows:

Sec. 16.011. PREMISES IN DRY AREA. A winery permit may be issued for premises in an area in which the sale of wine has not been authorized by a local option election. A holder of a permit under this section may engage in any activity authorized under Section 16.01 except that the permit holder may sell or dispense wine under that section only if the wine is:

(1) manufactured in this state; and

(2) at least 75 percent by volume fermented juice of grapes or other fruit grown in this state.

Explanation: The change is necessary to authorize wineries located in a dry area of the state to engage in the same activities, except for selling wine, as wineries located in wet areas of the state.

(3) Senate Rules 12.03(1) and (2) are suspended to permit the committee to amend SECTION 4 of the bill, so that the section reads as follows:

SECTION 4. This Act takes effect on the date on which the constitutional amendment proposed by the 78th Legislature, Regular Session, 2003, authorizing the legislature to authorize and govern the operation of wineries in this state takes effect. If that amendment is not approved by the voters, this Act has no effect.

Explanation: The change is necessary to conform the language to the language in the constitutional amendment that must be approved in order for the bill to take effect.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

#### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2593 ADOPTED**

Senator Estes called from the President's table the Conference Committee Report on **HB 2593**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

#### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 1664 ADOPTED**

Senator Averitt called from the President's table the Conference Committee Report on **SB 1664**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

#### **SENATE RESOLUTION 1036**

Senator Ellis offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **SB 1936**, relating to the creation of the Buffalo Bayou Management District; providing the authority to impose taxes and issue bonds, to consider and take action on the following matters:

(1) Senate Rule 12.03(1) is suspended to permit the committee to change text in SECTION 4 of the bill so that SECTION 4 reads as follows:

SECTION 4. BOUNDARIES. The district includes all the territory contained in the following described area:

POINT OF BEGINNING at the intersection of the west boundary line of the Houston Downtown Management District and the north boundary of Memorial Drive right-of-way, then west along the north boundary of Memorial Drive right-of-way to the north boundary of Memorial Drive's Heights North exit ramp, then northwest along the north boundary of Memorial Drive's Heights North exit ramp to the east boundary of Heights boulevard right-of-way, then west across Heights Boulevard from the east boundary of Heights Boulevard right-of-way to the west boundary of the Heights Boulevard right-of-way, then south along the west boundary of Heights boulevard right-of-way to the north boundary of Memorial Drive's Memorial West

entrance ramp, then southwest along the north boundary of Memorial Drive's Memorial West entrance ramp to the northern boundary line of Memorial Drive right-of-way, then west along the northern boundary line of Memorial Drive right-of-way to the west boundary line of Shepherd Drive right-of-way, then south along the west boundary line of Shepherd Drive right-of-way to the centerline of West Dallas, then east along the centerline of West Dallas to the intersection of the west boundary of Montrose Boulevard right-of-way and the centerline of West Dallas, then south along the west boundary line of Montrose Boulevard right-of-way to the south boundary line of U.S. Highway 59 and the west boundary line of Montrose Boulevard right-of-way, then in an easterly direction from said intersection along the south boundary line of U.S. Highway 59 to the intersection of the west boundary line of the Main Street right-of-way then proceeding from said intersection in a northwesterly direction along the boundary line of the west Main Street right-of-way paralleling the boundary line of the Greater Southeast Management District to the intersection of the boundary line of the south Portland Street right-of-way and the boundary line of the west Main Street right-of-way, being the southern boundary line of the Midtown Management District, then proceeding from said intersection in generally a northeasterly direction the boundary line parallels the Midtown Management District boundary line to the intersection of the west boundary line of the US Hwy 45 right-of-way and the north boundary line of the Cleveland Street right-of-way, being the western boundary line of the Houston Downtown Management District, then north from said intersection along the western boundary line of the Houston Downtown Management District to the POINT OF BEGINNING.

Explanation: The new description of the area of the district is necessary to reflect a change in the area to be included in the district.

(2) Senate Rule 12.03(1) is suspended to permit the committee to change text in SECTION 9 of the bill so that SECTION 9 reads as follows:

SECTION 9. BOARD OF DIRECTORS IN GENERAL. (a) The district is governed by a board of 31 voting directors appointed under Section 10 of this Act and nonvoting directors as provided by Section 11 of this Act.

(b) Voting directors serve staggered terms of four years, with 15 directors' terms expiring June 1 of an odd-numbered year and 16 directors' terms expiring June 1 of the following odd-numbered year.

(c) The board may decrease the number of directors on the board by resolution if the board finds that it is in the best interest of the district. The board may not consist of fewer than five directors.

Explanation: The changed text is necessary to accommodate a larger board of directors for the district and to stagger terms accordingly.

(3) Senate Rule 12.03(1) is suspended to permit the committee to change text in SECTION 11(b) of the bill so that Subsection (b) reads as follows:

(b) If a department described by Subsection (a) of this section is consolidated, renamed, or changed, the board may appoint a director of the consolidated, renamed, or changed department as a nonvoting director. If a department described by Subsection (a) of this section is abolished, the board may appoint a representative of another department that performs duties comparable to those performed by the abolished department.

Explanation: The change is necessary to clarify to which section the reference to "Subsection (a)" applies.

(4) Senate Rule 12.03(1) is suspended to permit the committee to change text in SECTION 19(a) of the bill so that Subsection (a) reads as follows:

(a) If authorized at an election held in accordance with Section 18 of this Act, the district may impose an annual ad valorem tax on taxable property in the district for the:

(1) maintenance and operation of the district and the improvements constructed or acquired by the district; or

(2) provision of a service.

Explanation: The change is necessary to clarify that the Section 18 referred to is from this Act.

(5) Senate Rule 12.03(1) is suspended to permit the committee to change text in SECTIONS 31(a), (b), and (c) of the bill so that Subsections (a), (b), and (c) read as follows:

(a) The initial board consists of the following persons:

Pos. No.	Name of Director
1	Kay Crooker
2	Mike Garver
3	Jackie Martin
4	Mark Lee
5	John Chase, Jr.
6	Adrian Collins
7	Max Schuette
8	June Deadrick
9	Don Cutrer
10	Raju Adwaney
11	Mike Mark
12	Sia Ravari
13	Cherry Walker
14	John Hansen
15	John Dao
16	William Taylor
17	Karen Domino
18	Kevin Hoffman
19	Jeff Andrews
20	William Paul Thomas
21	Theola Petteway
22	Keith Wade
23	Chrysisse Wilson
24	Sadie Rucker
25	Julie McClure
26	Angie Gomez
27	Tom Fricke
28	James Robert McDermaid
29	Kathy Hubbard
30	Marsha Johnson
31	Craig Jackson



(b) Of the initial directors, the terms of directors appointed for positions 1 through 15 expire June 1, 2005, and the terms of directors appointed for positions 16 through 31 expire June 1, 2007.

(c) Section 10 of this Act does not apply to this section.

Explanation: The changed text is necessary to add the complete number of initial directors authorized to serve on the board and to adjust their terms accordingly.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1936 ADOPTED**

Senator Ellis called from the President's table the Conference Committee Report on **SB 1936**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Ellis, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2533 ADOPTED**

Senator Staples called from the President's table the Conference Committee Report on **HB 2533**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 411 ADOPTED**

Senator Ellis called from the President's table the Conference Committee Report on **HB 411**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1010 ADOPTED**

Senator West called from the President's table the Conference Committee Report on **SB 1010**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 127 ADOPTED**

Senator Fraser called from the President's table the Conference Committee Report on **SB 127**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Fraser, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE ON  
SENATE BILL 1320 DISCHARGED**

On motion of Senator Nelson and by unanimous consent, the Senate conferees on **SB 1320** were discharged.

Question — Shall the Senate concur in the House amendments to **SB 1320**?

On motion of Senator Nelson, the Senate concurred in the House amendments to **SB 1320** by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 160 ADOPTED**

Senator Nelson called from the President's table the Conference Committee Report on **SB 160**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**SENATE RESOLUTION 998**

Senator Shapiro offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **SB 361**, relating to the precedence of certain municipal highway access rules and ordinances over highway access management orders of the Texas Transportation Commission, to consider and take action on the following matter:

Senate Rules 12.03(3) and (4) are suspended to permit the committee to add text not included in either the house or senate version of the bill to add Subsection (d), Section 203.032, Transportation Code, to read as follows:

(d) The state will not be liable under Chapter 101, Civil Practice and Remedies Code, for access granted under Subsection (b) to which the department had lodged a written objection. This subsection shall neither limit nor extend liability of a municipality or county.

Explanation: The added text is necessary to provide protection to this state from liability under the Texas Tort Claims Act when a municipality grants highway access and the Texas Transportation Commission has objected in writing to the municipality's action. The added text also clarifies that the protection afforded the state does not limit or extend any liability of a municipality or a county.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 361 ADOPTED**

Senator Shapiro called from the President's table the Conference Committee Report on **SB 361**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Shapiro, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 585 ADOPTED**

Senator Duncan called from the President's table the Conference Committee Report on **SB 585**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**SENATE RESOLUTION 1033**

Senator Van de Putte offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **SB 103**, relating to the carrying of weapons by peace officers and by special investigators, to consider and take action on the following matter:

Senate Rule 12.03(1) is suspended to permit the committee to change text that is not in disagreement by substituting "a recognized state" for "another state that allows peace officers commissioned in Texas to carry weapons in the other state" in Section 46.15(a), Penal Code, and by adding a new Subsection (g) to that section to read as follows:

(g) In this section, "recognized state" means another state with which the attorney general of this state, with the approval of the governor of this state, negotiated an agreement after determining that the other state:

- (1) has firearm proficiency requirements for peace officers; and
- (2) fully recognizes the right of peace officers commissioned in this state to carry weapons in the other state.

Explanation: This change is necessary to enable state officials to evaluate on a case-by-case basis state reciprocity with respect to the ability of out-of-state peace officers to carry weapons in this state.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 103 ADOPTED**

Senator Van de Putte called from the President's table the Conference Committee Report on **SB 103**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Van de Putte, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1059 ADOPTED**

Senator Ellis called from the President's table the Conference Committee Report on **SB 1059**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1413 ADOPTED**

Senator Deuell called from the President's table the Conference Committee Report on **SB 1413**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1541 ADOPTED**

Senator Lindsay called from the President's table the Conference Committee Report on **HB 1541**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Lindsay, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1204 ADOPTED**

Senator Wentworth called from the President's table the Conference Committee Report on **HB 1204**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Wentworth, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 671 ADOPTED**

Senator Staples called from the President's table the Conference Committee Report on **SB 671**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Staples, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1108 ADOPTED**

Senator Shapiro called from the President's table the Conference Committee Report on **SB 1108**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Shapiro, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**SENATE RESOLUTION 1008**

Senator Ellis offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **SB 473**, relating to assisting consumers to prevent identity theft; providing penalties, to consider and take action on the following matter:

(1) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add new text to Section 35.58, Business & Commerce Code, as added by the bill, so that the section reads as follows:

Sec. 35.58. CONFIDENTIALITY OF SOCIAL SECURITY NUMBER. (a) A person, other than government or a governmental subdivision or agency, may not:

(1) intentionally communicate or otherwise make available to the general public an individual's social security number;

(2) display an individual's social security number on a card or other device required to access a product or service provided by the person;

(3) require an individual to transmit the individual's social security number over the Internet unless the connection with the Internet is secure or the number is encrypted;

(4) require an individual's social security number for access to an Internet website, unless a password or unique personal identification number or other authentication device is also required for access; or

(5) print an individual's social security number on any materials, except as provided by Subsection (f), that are sent by mail, unless state or federal law requires that the individual's social security number be included in the materials.

(b) A person that is using an individual's social security number before January 1, 2005, in a manner prohibited by Subsection (a) may continue that use if:

(1) the use is continuous; and

(2) the person provides annual disclosure to the individual, beginning January 1, 2006, stating that on written request from the individual the person will cease to use the individual's social security number in a manner prohibited by Subsection (a).

(c) A person, other than government or a governmental subdivision or agency, may not deny services to an individual because the individual makes a written request under Subsection (b).

(d) If a person receives a written request from an individual directing the person to stop using the individual's social security number in a manner prohibited by Subsection (a), the person shall comply with the request not later than the 30th day after the date the request is received. The person may not impose a fee or charge for complying with the request.

(e) This section does not apply to:

(1) the collection, use, or release of a social security number that is required by state or federal law, including Chapter 552, Government Code;

(2) the use of a social security number for internal verification or administrative purposes;

(3) documents that are recorded or required to be open to the public under Chapter 552, Government Code;

(4) court records; or

(5) an institution of higher education if the use of a social security number by the institution is regulated by Chapter 51, Education Code, or another provision of the Education Code.

(f) Subsection (a)(5) does not apply to an application or form sent by mail, including a document sent:

(1) as part of an application or enrollment process;

(2) to establish, amend, or terminate an account, contract, or policy; or

(3) to confirm the accuracy of a social security number.

Explanation: The addition is necessary to establish a date on which disclosure to an individual concerning use of the individual's social security number must begin, to allow institutions of higher education to use an individual's social security number to comply with provisions of the Education Code, and to provide that a person who receives a request to stop using an individual's social security number must honor that request free of charge by a certain time.

(2) Senate Rules 12.03(3) and (4) are suspended to permit the committee to add a new Subsection (f) to SECTION 10 of the bill, to read as follows:

(f) An institution of higher education that is not subject to the exemption prescribed by Section 35.58(e)(5), Business & Commerce Code, as added by this Act, shall begin acting in compliance with Section 35.58, Business & Commerce Code, as added by this Act, on or before September 1, 2007.

Explanation: The added text is necessary to explain when institutions of higher education must comply with Section 35.58, Business & Commerce Code.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 473 ADOPTED**

Senator Ellis called from the President's table the Conference Committee Report on **SB 473**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 329 ADOPTED**

Senator Fraser called from the President's table the Conference Committee Report on **HB 329**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 610 ADOPTED**

Senator Nelson called from the President's table the Conference Committee Report on **SB 610**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 929 ADOPTED**

Senator Shapiro called from the President's table the Conference Committee Report on **SB 929**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 335 ADOPTED**

Senator Lindsay called from the President's table the Conference Committee Report on **HB 335**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2971 ADOPTED**

Senator Deuell called from the President's table the Conference Committee Report on **HB 2971**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1129 ADOPTED**

Senator Gallegos called from the President's table the Conference Committee Report on **HB 1129**. The Conference Committee Report was filed with the Senate on Friday, May 30, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1835 ADOPTED**

Senator Staples called from the President's table the Conference Committee Report on **SB 1835**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1551 ADOPTED**

Senator Duncan called from the President's table the Conference Committee Report on **SB 1551**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1314 ADOPTED**

Senator Averitt called from the President's table the Conference Committee Report on **HB 1314**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Averitt, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.



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

Senator Brimer called from the President's table the Conference Committee Report on **HB 1119**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1082 ADOPTED**

Senator Staples called from the President's table the Conference Committee Report on **HB 1082**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 976 ADOPTED**

Senator Shapiro called from the President's table the Conference Committee Report on **SB 976**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3587 ADOPTED**

Senator Lindsay called from the President's table the Conference Committee Report on **HB 3587**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Lindsay, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1182 ADOPTED**

Senator Deuell called from the President's table the Conference Committee Report on **SB 1182**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Deuell, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2415 ADOPTED**

Senator Averitt called from the President's table the Conference Committee Report on **HB 2415**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Averitt, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1369 ADOPTED**

Senator Duncan called from the President's table the Conference Committee Report on **SB 1369**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**SENATE RESOLUTION 1029**

Senator West offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **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, to consider and take action on the following matters:

(1) Senate Rule 12.03(2) is suspended to permit the committee to omit the section of the bill that adds Section 2113.108, Government Code, which reads as follows:

SECTION 1. Subchapter C, Chapter 2113, Government Code, is amended by adding Section 2113.108 to read as follows:

Sec. 2113.108. CERTAIN STUDIES INVOLVING STATISTICAL OR DEMOGRAPHIC ANALYSIS. (a) A state agency may not use appropriated money to contract with a consultant or other nongovernmental entity to perform or assist the agency in performing a statistical or demographic analysis of information collected by or for the agency in the course of conducting a study that the agency is required to conduct under state law unless the agency first contacts the Texas Legislative Council to determine whether the resources of the council are available to perform or assist the agency in performing that analysis. For purposes of this section, performing a statistical or demographic analysis of information in the course of conducting a study includes designing the analysis and collecting the information required for purposes of the study.

(b) If the Texas Legislative Council determines that council resources are available to perform or assist the state agency in performing all or part of the statistical or demographic analysis, the agency must contract with the council to perform or assist the agency in performing that analysis to the extent that the council determines that council resources are available to the agency.

Explanation: It is necessary to omit the text to ensure that under the bill state agencies may, but are not required to, contract with the Texas Legislative Council to perform certain statistical or demographic analyses.

(2) Senate Rule 12.03(1) is suspended to permit the committee to alter text in proposed Section 323.020, Government Code, so that Section 323.020(b) reads as follows:

(b) At the request of a state agency, the council may determine whether and the extent to which council resources are available to contract or otherwise agree with the agency to perform a statistical or demographic analysis of information for the agency or to assist the agency in performing the analysis. A reference in this section to performing an analysis includes assisting an agency to perform the analysis.

Explanation: It is necessary to alter the text to remove references to the omitted Section 2113.108 and to clarify that references to performing an analysis include references to assisting an agency to perform an analysis.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

#### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 1000 ADOPTED**

Senator West called from the President's table the Conference Committee Report on **SB 1000**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator West, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

#### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 1652 ADOPTED**

Senator Shapiro called from the President's table the Conference Committee Report on **SB 1652**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Shapiro, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

#### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2075 ADOPTED**

Senator Fraser called from the President's table the Conference Committee Report on **HB 2075**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1782 ADOPTED**

Senator Lindsay called from the President's table the Conference Committee Report on **SB 1782**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Lindsay, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**SENATE RESOLUTION 1014**

Senator Deuell offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **HB 3622**, relating to the creation, administration, powers, duties, operation, and financing of the Kingsborough Municipal Utility District No. 1 of Kaufman County, to consider and take action on the following matter:

Senate Rules 12.03(1) and (3) are suspended to permit the committee to amend SECTION 15(a) of the bill to read as follows:

(a) This Act takes effect on the date on or after September 1, 2003, on which a settlement agreement between the City of Crandall and the developer of the districts is legally executed regarding a pending petition before the Texas Commission on Environmental Quality for the right to provide retail water service to certain areas within the districts. If the settlement agreement is legally executed before September 1, 2003, this Act takes effect September 1, 2003.

Explanation: This change is necessary to ensure that the bill takes effect on a more appropriate date.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 3622 ADOPTED**

Senator Deuell called from the President's table the Conference Committee Report on **HB 3622**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1828 ADOPTED**

Senator Averitt called from the President's table the Conference Committee Report on **SB 1828**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 320 ADOPTED**

Senator Fraser called from the President's table the Conference Committee Report on **HB 320**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Fraser, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 1708 ADOPTED**

Senator Wentworth called from the President's table the Conference Committee Report on **SB 1708**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

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

**SENATE RESOLUTION 1035**

Senator Staples offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **HB 2044**, relating to the powers and duties of the General Land Office and the accounting and disposition of state-owned real property, to consider and take action on the following matter:

Senate Rule 12.03(1) is suspended to permit the committee to amend text that is not in disagreement in SECTION 16 of the bill, in Section 31.1572, Natural Resources Code, as added by the bill, to read as follows:

Sec. 31.1572. REAL ESTATE TRANSACTIONS BY PARKS AND WILDLIFE DEPARTMENT PROHIBITED IN CERTAIN AREAS. (a) The Parks and Wildlife Department may not offer for sale real property it owns or controls if the real property is located in a county:

(1) with a population of one million or more; and  
(2) in which at least two municipalities with a population of 300,000 or more are located.

(b) This section expires September 1, 2004.

Explanation: The changed text is necessary to narrow the scope of the authority granted to the Parks and Wildlife Department to dispose of state-owned real property.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2044 ADOPTED**

Senator Staples called from the President's table the Conference Committee Report on **HB 2044**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Staples, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**SENATE RESOLUTION 1053**

Senator Ellis offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08, to enable the conference committee appointed to resolve the differences on **HB 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; and the reporting of political contributions and personal financial information; providing civil and criminal penalties, to consider and take action on the following matters:

(1) Senate Rule 12.03(4) is suspended to permit the committee to add text to Subchapter C, Chapter 11, Education Code, to read as follows:

SECTION 6.04. Subchapter C, Chapter 11, Education Code, is amended by adding Section 11.064 to read as follows:

Sec. 11.064. FILING OF FINANCIAL STATEMENT BY TRUSTEE. (a) A trustee of an independent school district with an enrollment of at least 500 students shall file the financial statement required of state officers under Subchapter B, Chapter 572, Government Code, with:

- (1) the board of trustees; and
- (2) the Texas Ethics Commission.

(b) Subchapter B, Chapter 572, Government Code:

(1) applies to a trustee subject to this section as if the trustee were a state officer; and

(2) governs the contents, timeliness of filing, and public inspection of a statement filed under this section.

(c) A trustee subject to this section commits an offense if the trustee fails to file the statement required by this section. An offense under this section is a Class B misdemeanor.

Explanation: This change is necessary to require the filing of personal financial statements by members of the boards of trustees of certain school districts.

(2) Senate Rule 12.03(4) is suspended to permit the committee to add text to Chapter 60, Water Code, to read as follows:

SECTION 6.05. Chapter 60, Water Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. FINANCIAL DISCLOSURE BY  
MEMBERS OF GOVERNING BODY

Sec. 60.451. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a port authority or navigation district created or operating under Section 52, Article III, or Section 59, Article XVI, Texas Constitution.

Sec. 60.452. FILING OF FINANCIAL STATEMENT BY MEMBER OF GOVERNING BODY. (a) A member of the governing body of a port authority or navigation district shall file the financial statement required of state officers under Subchapter B, Chapter 572, Government Code, with:

- (1) the authority or district, as appropriate; and
- (2) the Texas Ethics Commission.

(b) Subchapter B, Chapter 572, Government Code:

(1) applies to a member of the governing body of an authority or district as if the member were a state officer; and

(2) governs the contents, timeliness of filing, and public inspection of a statement filed under this section.

(c) A member of the governing body of an authority or district commits an offense if the member fails to file the statement required by this section. An offense under this section is a Class B misdemeanor.

Explanation: This change is necessary to require the filing of personal financial statements by members of the governing bodies or boards of certain port authorities and navigation districts.

(3) Senate Rule 12.03(4) is suspended to permit the committee to add text to read as follows:

SECTION 6.08. Section 11.064, Education Code, as added by this Act, applies beginning January 1, 2005. A trustee subject to Section 11.064, Education Code, as added by this Act, is not required to include financial activity occurring before January 1, 2004, in a financial disclosure statement under that section.

Explanation: This change is necessary to provide for the applicability of the requirement that members of the boards of trustees of certain school districts file personal financial statements.

(4) Senate Rule 12.03(4) is suspended to permit the committee to add text to read as follows:

SECTION 6.09. Subchapter O, Chapter 60, Water Code, as added by this Act, applies beginning January 1, 2005. A member of the governing body of a port authority or navigation district subject to Subchapter O, Chapter 60, Water Code, is not required to include financial activity occurring before January 1, 2004, in a financial disclosure statement under Section 60.452, Water Code, as added by this Act.

Explanation: This change is necessary to provide for the applicability of the requirement that members of the governing bodies of certain port authorities and navigation districts file personal financial statements.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1606 ADOPTED**

Senator Ellis called from the President's table the Conference Committee Report on **HB 1606**. The Conference Committee Report was filed with the Senate on Sunday, June 1, 2003.

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

**STATEMENT OF LEGISLATIVE INTENT**

Senator Ellis submitted the following statement of legislative intent on **HB 1606**:

SECTION 2.21 of the Conference Committee Report creates new Section 254.1581 of the Election Code. This new section requires reporting by out-of-state political committees.

I strongly support this new requirement. Given the expressed legislative policy encouraging the electronic transmission of campaign reports, including strengthened requirements in this bill to submit campaign reports in electronic format, it is my intent that SECTION 2.21 of the bill be interpreted by the Ethics Commission in a manner that maximizes use of electronic transmission or connection to information via the Internet. As an example, the Senate in its version of the bill required electronic filing of all campaign reports. The reason is simple. Electronic filing increases availability to the public of information about their elected officials.

I strongly encourage the Ethics Commission, in adopting any rules or procedures to implement reporting by out-of-state political committees, to abide by the intent of the Senate to maximize use of electronic solutions for meeting the reporting requirements of this new section.

ELLIS

**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 19, SB 275, SB 284, SB 392, SB 396, SB 418, SB 827, SB 1007, SB 1184, SB 1252, SB 1477, SB 1488, SB 1494, SB 1570, SB 1696, SB 1725, SB 1820, SB 1904, SB 1932, SJR 42, HB 59, HB 151, HB 325, HB 518, HB 555, HB 849, HB 897, HB 1282, HB 1326, HB 1363, HB 1378, HB 1420, HB 1470, HB 1487, HB 1649, HB 1844, HB 1869, HB 1883, HB 1979, HB 2019, HB 2053, HB 2072, HB 2073, HB 2095, HB 2188, HB 2189, HB 2212, HB 2457, HB 2519, HB 2881, HB 2947, HB 2964, HB 3378, HB 3384, HB 3562, HB 3592, HB 3629, HCR 250, HCR 256, HCR 281, HJR 44, HJR 84.**



**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1817 ADOPTED**

Senator Duncan called from the President's table the Conference Committee Report on **HB 1817**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

On motion of Senator Duncan, the Conference Committee Report was adopted by the following vote: Yeas 31, Nays 0.

**(Senator Ogden in Chair)**

**SENATE RESOLUTION 1055**

Senator Armbrister offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 78th Legislature, Regular Session, 2003, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **HB 2359**, relating to the programs and systems administered by the Employees Retirement System of Texas, to consider and take action on the following matter:

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

SECTION \_\_\_\_\_. Section 812.003, Government Code, is amended by amending Subsection (d) and adding Subsections (e) through (h) to read as follows:

(d) For persons whose employment or office holding begins on or after September 1, 2005, membership [Membership] in the employee class begins on the first day the [a] person is employed or holds office.

(e) For persons whose employment or office holding begins before September 1, 2005, membership in the employee class begins on the 91st day after the first day a person is employed or holds office.

(f) A person who is reemployed or who again holds office after withdrawing contributions under Subchapter B for previous service credited in the employee class begins membership in the employee class on the 91st day after the first day the person is reemployed or again holds office.

(g) Notwithstanding any other provision of law, a member may establish service credit only as provided by Section 813.514 for service performed during the 90-day waiting period provided by Subsection (e) or (f).

(h) Subsections (e), (f), and (g) and this subsection expire September 1, 2005.

SECTION \_\_\_\_\_. Subchapter F, Chapter 813, Government Code, is amended by adding Section 813.514 to read as follows:

Sec. 813.514. CREDIT PURCHASE OPTION FOR CERTAIN SERVICE.

(a) A member may establish service credit under this section in the employee class only for service performed during a 90-day waiting period to become a member after beginning employment or holding office.

(b) A member may establish service credit under this section by depositing with the retirement system, for each month of service credit, the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would

be attributable to the purchase of the service credit under this section based on rates and tables recommended by the retirement system's actuary and adopted by the board of trustees.

(c) After a member makes the deposits required by this section, the retirement system shall grant the member one month of equivalent membership service credit for each month of credit approved. A member may establish not more than three months of equivalent membership service credit under this section.

(d) The retirement system shall deposit the amount of the actuarial present value of the service credit purchased in the member's individual account in the employees saving account.

(e) The board of trustees may adopt rules to administer this section, including rules that impose restrictions on the application of this section as necessary to cost-effectively administer this section.

SECTION \_\_\_\_\_. Section 812.003, Government Code, as amended by this Act, and Section 813.514, Government Code, as added by this Act, apply only to a person who is first employed by or begins to hold an office of the state on or after the effective date of this Act and to a former employee or office holder who has withdrawn retirement contributions under Subchapter B, Chapter 812, Government Code, and is reemployed by or begins to again hold an office of the state on or after the effective date of this Act.

Explanation: The added text is needed to provide that a new state employee or a reemployed state employee who has withdrawn contributions for previous service does not begin to receive service credit until the 91st day of employment. Such employees have the option to purchase service credit for the 90-day period at the actuarial value. This is a temporary change that expires September 1, 2005.

The resolution was read and was adopted by the following vote: Yeas 31, Nays 0.

**SENATE RULES 12.09 AND 12.10 SUSPENDED**  
**(Printing and Notice of Conference Committee Reports)**  
**(Section-by-Section Analysis)**

On motion of Senator Armbrister and by unanimous consent, Senate Rule 12.09 as it relates to the Conference Committee Report on **HB 2359** and Senate Rule 12.10 as it relates to the section-by-section analysis of the Conference Committee Report on **HB 2359** were suspended.

**CONFERENCE COMMITTEE REPORT ON**  
**HOUSE BILL 2359 ADOPTED**

Senator Armbrister called from the President's table the Conference Committee Report on **HB 2359**. The Conference Committee Report was filed with the Senate on Sunday, June 1, 2003.

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

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

June 1, 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 ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 1** (House adopts ccr by a vote of 105 yeas, 41 nays, 2 pnv)

**HB 7** (House adopts ccr by a vote of 138 yeas, 5 nays, 1 pnv)

**HB 3588** (House adopts ccr by a vote of 146 yeas, 0 nays, 1 pnv)

**SB 4** (House adopts ccr by a vote of 143 yeas, 0 nays, 1 pnv)

**SB 86** (non-record vote)

**SB 1652** (House adopts ccr by a vote of 147 yeas, 0 nays, 1 pnv)

Respectfully,

/s/Robert Haney, Chief Clerk  
House of Representatives

**AT EASE**

The Presiding Officer, Senator Ogden in Chair, at 9:18 p.m. announced the Senate would stand At Ease subject to the call of the Chair.

**IN LEGISLATIVE SESSION**

Senator Ogden at 9:30 p.m. called the Senate to order as In Legislative Session.

**MOTION TO ADOPT  
CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 86**

Senator Wentworth called from the President's table the Conference Committee Report on **SB 86**. The Conference Committee Report was filed with the Senate on Saturday, May 31, 2003.

Senator Wentworth moved to adopt the Conference Committee Report on **SB 86**.

Senator West at 9:35 p.m. was recognized to speak on the Conference Committee Report on **SB 86**.

**(Senator Williams occupied the Chair during the discussion of SB 86)**

**(Senator Janek occupied the Chair during the discussion of SB 86)**

**(Monday, June 2, 2003)**

**POINT OF ORDER**

Senator Shapleigh at 12:02 a.m. raised a point of order against further discussion of **SB 86**, stating that the legislative deadline for the adoption of Conference Committee Reports had passed.

**POINT OF ORDER RULING**

The Presiding Officer, Senator Janek in Chair, stated that the point of order was well-taken and sustained.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1606**

Senator Ellis submitted the following Conference Committee Report:

Austin, Texas  
June 1, 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 1606** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ELLIS  
BRIMER  
OGDEN  
RATLIFF  
WHITMIRE

On the part of the Senate

WOLENS  
DENNY  
KEEL  
MADDEN  
WILSON

On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 2359**

Senator Armbrister submitted the following Conference Committee Report:

Austin, Texas  
June 1, 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 2359** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

ARMBRISTER  
DUNCAN  
ZAFFIRINI

On the part of the Senate

RITTER  
KING  
HILL

On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

### **RESOLUTIONS OF RECOGNITION**

The following resolutions were adopted by the Senate:

#### **Memorial Resolution**

**SR 1049** by Armbrister, In memory of Quentin Ware Martin.

#### **Congratulatory Resolutions**

**SR 1043** by Fraser, Commending Linda K. Ahrens for her contributions to the educational system of Texas.

**SR 1050** by Lucio, Congratulating Pete Avila of Brownsville on his graduation from college.

**SR 1054** by West, Congratulating the God's Leading Ladies Conference graduates.

**HCR 278** (Duncan), Honoring Shirley Igo of Plainview on her distinguished tenure as National PTA president.

**HCR 282** (Wentworth), Commending Warren B. Branch, D.D.S., on his professional accomplishments.

**HCR 286** (Lucio), Honoring U.S. Marine Corporal Manuel Espinoza, Jr., of Weslaco for his bravery during Operation Iraqi Freedom.

#### **ADJOURNMENT**

On motion of Senator Wentworth, the Senate at 12:03 a.m. Monday, June 2, 2003, adjourned until 10:00 a.m. today.

