

# HOUSE JOURNAL

---

SEVENTY-FIFTH LEGISLATURE, REGULAR SESSION

---

## PROCEEDINGS

EIGHTY-EIGHTH DAY — SATURDAY, MAY 31, 1997

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 616).

Present — Mr. Speaker; Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Absent, Excused — Price.

The invocation was offered by Representative Hunter.

### **LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for today because of important business in the district:

Price on motion of Roman.

### **RESOLUTIONS REFERRED TO COMMITTEES**

Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

### **HR 1279 - ADOPTED (by Christian)**

Representative Christian moved to suspend all necessary rules to take up and consider at this time **HR 1279**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 1279**, In memory of Paul Thomas Cook.

**HR 1279** was read and was unanimously adopted by a rising vote.

On motion of Representative Stiles, the names of all the members of the house were added to **HR 1279** as signers thereof.

### **INTRODUCTION OF GUESTS**

The speaker recognized Representative Christian, who introduced members of Paul Thomas Cook's family.

### **BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER**

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 77).

#### **HCR 318 - ADOPTED (by Alvarado)**

Representative Alvarado moved to suspend all necessary rules to take up and consider at this time **HCR 318**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HCR 318**, In memory of the Honorable Ralph Webster Yarborough.

**HCR 318** was unanimously adopted by a rising vote.

On motion of Representative Hunter, the names of all the members of the house were added to **HCR 318** as signers thereof.

#### **HCR 320 - ADOPTED (by Alvarado)**

Representative Alvarado moved to suspend all necessary rules to take up and consider at this time **HCR 320**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HCR 320**, Congratulating former State Representative Karyne Jones Conley on her new position with SBC Telecommunications, Inc., in Washington, D.C.

**HCR 320** was adopted without objection.

On motion of Representative Hunter, the names of all the members of the house were added to **HCR 320** as signers thereof.

#### **HR 1299 - ADOPTED (by Wohlgemuth)**

Representative Wohlgemuth moved to suspend all necessary rules to take up and consider at this time **HR 1299**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 1299**, Recognizing Glen Rose as the dinosaur capital of Texas.

**HR 1299** was adopted without objection.

**HR 1261 - ADOPTED**  
**(by Hamric)**

Representative Hamric moved to suspend all necessary rules to take up and consider at this time **HR 1261**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 1261**, Honoring the Reverend Father Louis J. Christopoulos for his service to the Annunciation Greek Orthodox Cathedral in Houston.

**HR 1261** was adopted without objection.

**HR 1298 - ADOPTED**  
**(by Hamric)**

Representative Hamric moved to suspend all necessary rules to take up and consider at this time **HR 1298**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 1298**, In memory of David H. Hall.

**HR 1298** was unanimously adopted by a rising vote.

**LEAVE OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today to attend a funeral:

Giddings on motion of Gutierrez.

**HR 1264 - ADOPTED**  
**(by West)**

Representative West moved to suspend all necessary rules to take up and consider at this time **HR 1264**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 1264**, Congratulating Vickie Gomez on her receipt of the Mujeres que Pueden, or Women Who Can award.

**HR 1264** was adopted without objection.

**CAPITOL PHYSICIAN**

The speaker recognized Representative Christian who presented Dr. R. A. McMurray of Jasper as the "Doctor for the Day."

The house welcomed Dr. McMurray and thanked him for his participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

(Chisum in the chair)

**BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER**

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 40).

**HR 1300 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the chair announced the introduction of **HR 1300**, suspending the limitations on the conferees for **SB 370**.

(Speaker in the chair)

**HR 1302 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1302**, suspending the limitations on the conferees for **SB 1563**.

**HR 1297 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1297**, suspending the limitations on the conferees for **SB 1440**.

**HB 768 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Junell submitted the following conference committee report on **HB 768**:

Austin, Texas, May 28, 1997

Honorable Bob Bullock  
President of the Senate

Honorable Pete Laney  
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 768** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Duncan

Junell

Sibley

Dunnam

Fraser

Wilson

Luna

Tillery

Shapleigh

Nixon

On the part of the Senate

On the part of the House

**HB 768**, A bill to be entitled An Act relating to remedies in an action alleging discrimination against an employee based on a claim for workers' compensation benefits.

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

SECTION 1. Section 451.002, Labor Code, is amended by amending Subsection (c) to read as follows:

(c) The burden of proof in a proceeding under this section is on the employee to establish that an action of the employee protected under Section 451.001 was a substantial cause of the discrimination.

SECTION 2. This Act takes effect September 1, 1997, and applies only to a cause of action that accrues on or after the effective date of this Act. An action that accrues before the effective date of this Act is governed by the law in effect when the action accrued, and the former law is continued in effect for that purpose.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Representative Junell moved to adopt the conference committee report on **HB 768**.

The motion prevailed.

**SB 1395 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Stiles, the house granted the request of the senate for the appointment of a conference committee on **SB 1395**.

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 1395**: Stiles, chair, Glaze, Flores, Hamric, and Thompson.

**HB 2542 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Kuempel submitted the following conference committee report on **HB 2542**:

Austin, Texas, May 29, 1997

Honorable Bob Bullock  
President of the Senate

Honorable Pete Laney  
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2542** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Brown  
Armbrister  
Haywood  
Lucio  
Truan

Kuempel  
Davis  
Hightower  
McCall

On the part of the Senate

On the part of the House

**HB 2542**, A bill to be entitled An Act relating to the regulation of parks and wildlife; providing penalties.

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

SECTION 1. Section 1.012, Parks and Wildlife Code, is amended to read as follows:

Sec. 1.012. PUBLIC [PRIVATE] FRESH WATER. Any public freshwater lake, river, creek, or bayou in this state contained in any survey of private land may not be sold but shall remain open to the public. The [If the] Parks and Wildlife Department [stocks the water with fish, it] is authorized to protect the fish in public waters under rules as it may prescribe.

SECTION 2. Section 1.101(1), Parks and Wildlife Code, is amended to read as follows:

(1) "Hunt" means capture, trap, [seek or pursue with intent to] take, or kill, or [and includes take, kill, and] an attempt to capture, trap, take, or kill.

SECTION 3. Subchapter B, Chapter 11, Parks and Wildlife Code, is amended by adding Section 11.0181 to read as follows:

Sec. 11.0181. EMPLOYEES AS EDUCATORS AND OUTREACH PROPONENTS. (a) Employees of the department through education and outreach shall:

(1) expand the wise use and conservation of fish and wildlife resources; and

(2) increase the participation in outdoor recreation, including recreational activities in urban areas consistent with the mission and goals of the department.

(b) The department may use money from any of the department's special accounts to pay for education and outreach activities performed by department employees or to provide grants for education and outreach activities to be performed by other entities.

SECTION 4. Subchapter B, Chapter 11, Parks and Wildlife Code, is amended by adding Section 11.0261 to read as follows:

Sec. 11.0261. PROHIBITION AGAINST ACCEPTANCE OF GIFTS, GRATUITIES, AND OTHER THINGS OF VALUE. A person who is a member of the commission or an employee of the department may not accept a gift, gratuity, or other thing of value, including travel, from a person who:

(1) is employed by or participates in the management of a business entity or other organization that receives funds from the department;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization that receives funds from the department;

(3) is a person a significant portion of whose business consists of furnishing goods or services to an entity or organization described by Subdivision (1) or (2); or

(4) is an agent, representative, attorney, employee, officer, owner, director, or partner of an entity, organization, or person described by Subdivision (1), (2), or (3).

SECTION 5. Section 11.027, Parks and Wildlife Code, is amended by adding Subsection (e) to read as follows:

(e) The commission by rule may establish and provide for the collection of a fee for entering, reserving, or using a facility or property owned or managed by the department.

SECTION 6. Subchapter B, Chapter 11, Parks and Wildlife Code, is amended by adding Section 11.0272 to read as follows:

Sec. 11.0272. PUBLIC FISHING AND SPECIAL EVENTS DRAWING; FEES. (a) The department may conduct public drawings to select applicants for public fishing or other special events privileges. The department may charge each person who participates in the drawing a nonrefundable participation fee in addition to any fee for issuing a permit or fishing license. The participation fee shall be set by the commission in an amount sufficient to pay the costs of operating the drawing.

(b) The commission may approve participation fees, not to exceed \$25 per species or event for each participant on an application, in drawings for special fishing or other special programs, packages, or events the costs of which exceed the costs of operating the drawing only if the receipts from fees charged are designated for use in the management and restoration efforts of the specific fishery or resource program implementing each special fishing or other special program, package, or event.

SECTION 7. Section 11.033, Parks and Wildlife Code, is amended to read as follows:

Sec. 11.033. Use of Game, Fish, and Water Safety Account. Money in the game, fish, and water safety account may be used for the following purposes:

(1) enforcement of fish, shrimp, and oyster laws, game laws, and laws pertaining to sand, shell, and gravel;

(2) dissemination of information pertaining to marine life, wild animal life, wildlife values, and wildlife management;

(3) scientific investigation and survey of marine life for the better protection and conservation of marine life;

(4) establishment and maintenance of fish hatcheries, fish sanctuaries, tidal water fish passes, wildlife management areas, and public hunting grounds;

(5) propagation and distribution of marine life, game animals, and wild birds;

(6) protection of wild birds, fish, and game;

(7) purchase, repair, and operation of boats and dredges;

(8) research, management, and protection of the fish and wildlife resources of this state, including alligators and fur-bearing animals;

(9) salaries of employees and other expenses necessary to carry out the duties of the department under laws relating to fish, shrimp, oysters, game, water safety, and sand, shell, and gravel;

(10) expansion and development of additional opportunities of hunting and fishing in state-owned land and water;

(11) removing rough fish from public water;

(12) ~~construction and maintenance of artificial reefs under Section 12.016 of this code;~~

~~[(13)] administration and enforcement of the water safety laws as set out in Chapter 31 [of this code];~~

(13) ~~[(14)] purchasing all necessary forms and supplies, including reimbursement of the department for any material produced by its existing facilities or work performed by other divisions of the department;~~

(14) ~~[(15)] purchase, construction, and maintenance of boat ramps on or near public waters as provided in Chapter 31 [of this code];~~

(15) [(16)] resource protection activities; and

(16) [(17)] any other use provided by law.

SECTION 8. Section 12.010, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.010. NOXIOUS VEGETATION PROGRAM. The department may contract with a person not employed by the department or use the services of department personnel for the control [~~eradication~~] of noxious vegetation in [~~from~~] the water of this state.

SECTION 9 Section 12.013, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.013. POWER TO TAKE WILDLIFE. An employee of the [~~The~~] department acting within the scope of the employee's authority may take, transport, release, and manage any of the wildlife and fish in this state for investigation, propagation, distribution, education, or scientific purposes. [~~It is a defense in any prosecution of an employee of the department for a violation of any law for the protection of wildlife or fish that the employee was acting within the scope of this authority.~~]

SECTION 10. Sections 12.114(b) and (c), Parks and Wildlife Code, are amended to read as follows:

(b) If the person is a resident as defined by Subdivision (1) of Section 42.001 of this code, "driver's license" and "personal identification certificate" have the meanings assigned [~~provided~~] by Chapter 521, Transportation Code [~~Subdivisions (1) and (4), Section 1, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes)~~].

(c) If the person is a nonresident as defined by [~~Subdivision (3) of~~] Section 42.001 [~~of this code~~], "driver's license" and "personal identification certificate" mean those documents that are similar to those defined in Subsection (b) [~~of this section~~] and that are issued by the agency in the state or country of which the person is a resident that is authorized to issue driver's licenses or personal identification certificates.

SECTION 11. Section 12.404, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.404. CLASS A PARKS AND WILDLIFE CODE MISDEMEANOR. An individual adjudged guilty of a Class A Parks and Wildlife Code misdemeanor shall be punished by:

- (1) a fine of not less than \$500 nor more than \$4,000 [~~\$2,000~~];
- (2) confinement in jail for a term not to exceed one year; or
- (3) both such fine and imprisonment.

SECTION 12. Section 12.405, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.405. CLASS B PARKS AND WILDLIFE CODE MISDEMEANOR. An individual adjudged guilty of a Class B Parks and Wildlife Code misdemeanor shall be punished by:

- (1) a fine of not less than \$200 nor more than \$2,000 [~~\$1,000~~];
- (2) confinement in jail for a term not to exceed 180 days; or
- (3) both such fine and imprisonment.

SECTION 13. Section 12.407, Parks and Wildlife Code, is amended to read as follows:



Sec. 12.407. PARKS AND WILDLIFE CODE FELONY. (a) An individual adjudged guilty of a Parks and Wildlife Code felony shall be punished by confinement in the institutional division of the Texas Department of Criminal Justice [~~Corrections~~] for any term of not more than 10 years or less than two years.

(b) In addition to imprisonment, an individual adjudged guilty of a Parks and Wildlife Code felony may be punished by a fine of not less than \$2,000 nor more than \$10,000 [~~\$5,000~~].

SECTION 14. Section 12.409, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.409. SEPARATE OFFENSES. Each fish, bird, animal, reptile, or amphibian or part of a fish, bird, animal, reptile, or amphibian taken, possessed, killed, left to die, imported, exported, offered for sale, sold, purchased, attempted to be purchased, or retained in violation of any provision of this code or a proclamation or regulation adopted under this code constitutes a separate offense.

SECTION 15. Section 12.505, Parks and Wildlife Code, is amended to read as follows:

Sec. 12.505. VIOLATION OF SUSPENSION OR REVOCATION. A person who engages in an activity requiring a permit or license during the time for which such license or permit has been suspended or revoked commits an offense that is a Class A Parks and Wildlife Code misdemeanor.

SECTION 16. Section 13.001(b), Parks and Wildlife Code, is amended to read as follows:

(b) The commission shall establish a classification system for state parks and wildlife management areas that categorizes wildlife management areas, parks, or a portion of parks as wildlife [~~game~~] management areas, recreational areas, natural areas, or historical areas.

SECTION 17. Section 13.016(b), Parks and Wildlife Code, is amended to read as follows:

(b) Convicts working in connection with lands under the control or jurisdiction of the department [~~a state park~~] remain under the control of the Texas Department [~~Board~~] of Criminal Justice [~~Corrections~~] and are considered as serving their terms in the penitentiary.

SECTION 18. Section 13.019, Parks and Wildlife Code, is amended to read as follows:

Sec. 13.019. FACILITY [~~CAMPSITE~~] RESERVATION FEE. The department may permit the advance reservation of a facility, lodging, or campsite at a state park and require the payment of a fee by a person making the reservation. [~~If the reservation is cancelled by 72 hours prior to the day the site is first to be occupied under the reservation, the reservation fee shall be refunded. If the reservation is confirmed by the person's arriving at the park, the reservation fee shall be applied to the first day's user fee. No user fee may be required in advance as part of the reservation procedure.~~]

SECTION 19. The heading to Chapter 23, Parks and Wildlife Code, is amended to read as follows:

CHAPTER 23. NATIONAL PARKS, NATIONAL SEASHORES, AND OTHER FEDERAL LANDS [~~FORESTS~~]

SECTION 20. Subchapter D, Chapter 23, Parks and Wildlife Code, is amended to read as follows:

SUBCHAPTER D. FEDERAL LANDS  
~~[DAVY CROCKETT NATIONAL FOREST]~~

Sec. 23.041. AGREEMENTS FOR WILDLIFE MANAGEMENT. ~~[(a)]~~  
 The department may agree with the proper agency of the United States for the protection and management of wildlife resources and for restocking desirable species of wildlife on federal lands in the state ~~[in portions of the Davy Crockett National Forest, in Houston and Trinity counties, that can be designated by a natural boundary. A natural boundary may be a road, lake, stream, canyon, rock, bluff, island, or other natural feature].~~

~~[(b) No agreement under this section may cover more than 40,000 acres at any one time during any five-year period.]~~

Sec. 23.042. WILDLIFE RESOURCES DEFINED. In this subchapter, "wildlife resources" means all wild ~~[kinds of]~~ birds, wild animals, and aquatic animal life ~~[fish].~~

Sec. 23.043. HUNTING AND FISHING REGULATIONS. The commission, under Chapter 61 or Subchapter E, Chapter 81, may provide for open seasons for hunting and fishing on federal lands for which the department has entered into a wildlife management agreement under this subchapter ~~[promulgate regulations applicable to the Davy Crockett National Forest, in Houston and Trinity counties, to:~~

~~[(1) prohibit hunting and fishing for periods of time as necessary to protect wildlife;~~

~~[(2) provide open seasons for hunting and fishing;~~

~~[(3) provide limitations on the number, size, kind, and sex of wildlife that may be taken; and~~

~~[(4) prescribe the conditions under which wildlife may be taken].~~

Sec. 23.044. PENALTY. A person who violates any rule or regulation of the commission adopted under this subchapter or who hunts or fishes on federal lands included in a wildlife management agreement under this subchapter ~~[in the Davy Crockett National Forest]~~ at any time other than the open season commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SECTION 21. Section 31.003(1), Parks and Wildlife Code, is amended and Section 31.003(14), Parks and Wildlife Code, as amended by Chapters 450 and 739, Acts of the 73rd Legislature, Regular Session, 1993, is amended and reenacted to read as follows:

(1) "Boat" means a vessel not more than 65 feet in length, measured from end to end over the deck, excluding sheer~~[- and manufactured or used primarily for noncommercial use].~~

(14) "Personal watercraft" means ~~[a vessel of]~~ a type of motorboat that ~~[which]~~ is specifically designed to be operated by a person or persons sitting, standing, or kneeling on the vessel rather than in the conventional manner of sitting or standing inside the vessel.

SECTION 22. Section 31.004, Parks and Wildlife Code, is amended to read as follows:

Sec. 31.004. APPLICATION OF CHAPTER. The provisions of this chapter apply to all public water of this state and to all vessels [watercraft navigated or moving] on ~~[the]~~ public water. Privately owned water is not subject to the provisions of this chapter.

SECTION 23. Section 31.021(b), Parks and Wildlife Code, is amended to read as follows:

(b) No person may operate or give permission for the operation of any vessel, or dock, moor, or store a vessel owned by the person, on the water of this state unless:

(1) the vessel is numbered as required by this chapter;

(2) ~~[-unless]~~ the certificate of number awarded to the vessel is in full force and effect;~~[-]~~ and

(3) ~~[unless]~~ the identifying number set forth in the certificate is properly displayed on each side of the bow of the vessel.

SECTION 24. Section 31.129(a), Parks and Wildlife Code, is amended to read as follows:

(a) A person who violates or fails to comply with a rule of the Texas Natural Resource Conservation Commission ~~[Department of Water Resources]~~ concerning the disposal of sewage from boats commits an offense that is a Class C Parks and Wildlife Code misdemeanor. A separate offense is committed each day a violation continues.

SECTION 25. Section 41.003(b), Parks and Wildlife Code, is amended to read as follows:

(b) An agreement must provide that a resident ~~[residents]~~ of the border state who has ~~[have]~~ a ~~[commercial or]~~ sport fishing license or a hunting license issued by the border state may fish or hunt migratory waterfowl on rivers and lakes of the common border, and a Texas resident ~~[residents]~~ holding a Texas license is ~~[licenses are]~~ extended equal privileges. A person who holds a nonresident sport fishing license or a nonresident hunting license issued by this state or a border state may be extended the same privileges as those extended a resident license holder under this subsection.

SECTION 26. Section 41.004, Parks and Wildlife Code, is amended to read as follows:

Sec. 41.004. RECIPROCAL AGREEMENTS PROCLAIMED. An ~~[The commission may approve any]~~ agreement under Section 41.003 is not effective until the commission ~~[of this code]~~ by proclamation has approved it. ~~[A proclamation becomes effective 30 days after the day it is issued or 30 days after the agreement has been lawfully accepted by the bordering state, whichever is later.]~~

SECTION 27. Section 41.006(c), Parks and Wildlife Code, is amended to read as follows:

(c) Regulations adopted by the commission or issued by the director, when authorized by the commission to issue regulations, take effect 20 ~~[30]~~ days after their adoption or issuance or as otherwise specified in the regulations.

SECTION 28. Section 42.001, Parks and Wildlife Code, is amended to read as follows:

Sec. 42.001. DEFINITIONS. In this chapter:

(1) "Resident" means:

(A) an individual who has resided continuously in this state for more than six months immediately before applying for a hunting license;

(B) a member of the United States armed forces on active duty;

(C) a dependent of a member of the United States armed forces on active duty; or

(D) a member of any other category of individuals that the commission by regulation designates as residents.

(2) "Nonresident" means an individual who is not a resident.

(3) "Carcass" means the ~~[dead]~~ body of a dead deer or antelope, as listed in Section 63.001(a), that has not been processed more than by quartering [minus the offal and inedible organs, or the trunk with the limbs and head attached, with or without the hide].

(4) "Final destination, [destination]" for a carcass or wild turkey or any part of a carcass or wild turkey, means:

(A) the permanent residence of the hunter;

(B) ~~[-];~~ the permanent residence of any other person receiving the carcass or wild turkey or the part of a carcass or wild turkey; ~~[a dead wild turkey, deer carcass, or any part of a deer carcass;]~~ or

(C) a cold storage or [commercial] processing facility [plant after the carcass or turkey has been finally processed].

(5) "Final processing," for a carcass or wild turkey, means the cleaning of the dead animal for cooking or storage purposes. For a carcass, the term also includes the processing of the animal more than by quartering.

(6) "Cold storage or processing facility" means a stationary facility designed and constructed to store or process game animals and game birds.

(7) "Wildlife resource document" means a document prescribed by the department, other than a tag or permit, that allows a person to give, leave, receive, or possess any species of legally taken game bird or game animal, or part of a legally taken game bird or game animal, if the game bird or game animal is otherwise required to have a tag or permit attached or is protected by a bag or possession limit.

(8) "Quartering" means the processing of an animal into not more than two hindquarters each having the leg bone attached to the hock and two forequarters each having the leg portion to the knee attached to the shoulder blade. The term also includes removal of two back straps and trimmings from the neck and rib cage.

SECTION 29. Section 42.018, Parks and Wildlife Code, is amended by amending Subsections (a) and (c) and adding Subsections (d)-(g) to read as follows:

(a) Except as provided by Subsection (d) or commission rule, no [No] person may possess the carcass of a [wild] deer [at any time] before the carcass has been finally processed at a [and delivered to the] final destination unless there is attached to the carcass a properly executed deer tag from a hunting license provided by the department and issued to the person who killed the deer.

(c) If the deer's head is severed from the carcass, the properly executed tag must remain with the carcass.

(d) A wildlife resource document completed by the person who killed the deer must accompany the head or other part of the deer not accompanied by a tag if at any time before the carcass is finally processed the head or other part of the deer no longer accompanies the carcass. If a portion of the carcass is

divided among persons and separated and the person who killed the deer retains a portion of the carcass, that person shall retain the tag with the portion of the carcass retained by that person. A wildlife resource document shall be retained with the head of a deer that is not kept with the carcass until the head is delivered to the owner after taxidermy or, if not treated by a taxidermist, until delivered to a final destination.

(e) Final processing for a deer carcass may occur only at a final destination.

(f) This section does not prohibit a person before delivering a deer carcass to a final destination from removing and preparing a part of the deer if the removal and preparation occur immediately before the part is cooked or consumed.

(g) A landowner or the landowner's [his] agent operating under a wildlife management plan approved by the department is, if authorized by the commission, exempt from the tag requirements of this section.

SECTION 30. Section 42.0185, Parks and Wildlife Code, is amended by amending Subsection (a) and adding Subsections (c) and (d) to read as follows:

(a) Except as provided by commission rule, no [No] person may possess a [dead] wild turkey at any time after the turkey is killed and before it has been finally processed at a [and delivered to the] final destination unless there is attached to the [dead-wild] turkey a properly executed turkey tag from a hunting license provided by the department and issued to the person who killed the turkey.

(c) A wildlife resource document completed by the person who killed the turkey must accompany a part of the turkey if at any time before the turkey reaches a final destination the part of the turkey no longer accompanies the tagged turkey and is possessed by the person who killed the turkey or is given to, left with, or possessed by another person, including a taxidermist.

(d) This section does not prohibit a person before delivering a wild turkey to a final destination from preparing part of the turkey immediately before cooking and consuming the part.

SECTION 31. Section 42.019, Parks and Wildlife Code, is amended to read as follows:

Sec. 42.019. POSSESSION OF CERTAIN PARTS OF ANTELOPE [DEER]. (a) Except as provided by Subsection (c), no [No] person may possess the carcass of an antelope before it has been finally processed at a final destination unless there is attached to the carcass an antelope permit provided by the department that is executed legibly, accurately, and completely by the person who killed the antelope [a wild deer with the head removed unless the carcass has been finally processed and delivered to the final destination].

(b) If the antelope's head is severed from the carcass, the properly executed permit must remain with the carcass. [No person, other than the person who killed the deer, may receive or possess any part of a deer without a legible hunter's document attached to the carcass or part of the deer.]

(c) A wildlife resource document completed by the person who killed the antelope must accompany the head or other part of the antelope not accompanied by a permit if at any time before the carcass is finally processed the head or other part of the antelope no longer accompanies the carcass. If a

portion of the carcass is divided among persons and separated and the person who killed the antelope retains a portion of the carcass, that person shall retain the permit with the portion of the carcass retained by that person. A wildlife resource document shall be retained with the head of an antelope that is not kept with the carcass until the head is delivered to the owner after taxidermy or, if not treated by a taxidermist, until delivered to a final destination. [A hunter's document is an instrument signed and executed by the person who killed the deer and must contain:

~~[(1) the name and address of the person who killed the deer;~~

~~[(2) the number of the hunting license of the person who killed the deer;~~

~~[(3) the date on which the deer was killed; and~~

~~[(4) the name of the ranch and the county where the deer was killed.]~~

(d) Final processing for an antelope carcass may occur only at a final destination.

(e) This section does not prohibit a person before delivering an antelope carcass to a final destination from removing and preparing a part of the antelope if the removal and preparation occur immediately before the part is cooked and consumed. [A hunter's document shall remain with any part of the deer until it is finally processed and delivered to the final destination.]

SECTION 32. Section 43.0721, Parks and Wildlife Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) No person may release banded pen-reared birds under this subchapter ~~[and receive as a guest for pay or other consideration an individual engaged in hunting,]~~ unless the person holds a valid private bird hunting area license.

(c) A person is not required to hold a hunting lease license issued under Subchapter D to hunt banded pen-reared birds released under the authority of this subchapter.

SECTION 33. Section 43.075(d), Parks and Wildlife Code, is amended to read as follows:

(d) The band must remain on each bird killed until the bird is taken to the permanent residence of the hunter, the permanent residence of another person receiving the bird, or a cold storage or processing facility unless ~~[a final destination. It is a defense to prosecution under this subsection if]~~ the name and identification number of the licensee has been stamped or printed on the box, wrapping, or package containing the carcass of a bird that has been processed and possessed, shipped, or transported without the band attached.

SECTION 34. Section 43.154(d), Parks and Wildlife Code, is amended to read as follows:

(d) No state permit is required to authorize a person to kill ~~[authorizing the killing of]~~ migratory ~~[game]~~ birds protected by the Federal Migratory Bird Treaty Act if the person has obtained ~~[may be issued unless the applicant has received]~~ a permit authorizing that activity from the United States Department of the Interior or the United States Department of Agriculture ~~[Fish and Wildlife Service. No permit may be issued for the taking of wildlife protected under Chapter 68 of this code (Endangered Species)].~~

SECTION 35. Section 43.201(a), Parks and Wildlife Code, is amended to read as follows:

(a) Except as provided by Subsection (c) or (d) ~~[of this section]~~, no person may hunt ~~[wild]~~ deer, ~~[bear,]~~ turkey, or javelina (collared peccary) during an open archery season provided by law or by the proclamations of the commission and during which season only crossbows used by hunters with upper limb disabilities and longbows, recurved bows, and compound bows ~~[and arrows]~~ may be used unless the person has acquired an archery hunting stamp issued to the person by the department. The commission by rule may prescribe requirements relating to possessing a stamp required by this subchapter.

SECTION 36. Section 43.203, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.203. HUNTING LICENSE REQUIRED. The purchase or possession of an archery hunting stamp does not permit a person to hunt ~~[wild]~~ deer, ~~[bear,]~~ turkey, or javelina without the license required by Chapter 42 ~~[of this code]~~ or by any means or methods not allowed by law.

SECTION 37. Section 43.355(b), Parks and Wildlife Code, is amended to read as follows:

(b) A scientific breeder's permit is valid only during the yearly period for which the permit is issued without regard to the date on which the permit is acquired ~~[expires one year from the date of issuance]~~. Each yearly period begins on September 1 or on another date set by the commission and extends through August 31 of the next year or another date set by the commission.

SECTION 38. Section 43.356(b), Parks and Wildlife Code, is amended to read as follows:

(b) The scientific breeder shall place a suitable permanent ~~[metal]~~ tag bearing the scientific breeder's ~~[his]~~ serial number on the ear of each white-tailed deer or mule deer possessed ~~[held in captivity or sold]~~ by the scientific breeder and shall place on the white-tailed deer or mule deer any other identification marking prescribed by the commission.

SECTION 39. Section 43.357(b), Parks and Wildlife Code, is amended to read as follows:

(b) The commission may make regulations governing:

(1) the possession of white-tailed deer and mule deer for scientific, management, and propagation purposes; and

(2) the recapture of lawfully possessed white-tailed deer or mule deer that have escaped from a facility of a scientific breeder.

SECTION 40. Section 43.358, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.358. INSPECTION. An authorized employee of the department may inspect at any time and without warrant:

(1) any pen, coop, or enclosure holding white-tailed deer or mule deer; or

(2) any records required to be maintained under Section 43.359(a).

SECTION 41. Section 43.359, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.359. REPORTS. (a) A ~~[The holder of a]~~ scientific breeder ~~[breeder's permit]~~ shall maintain an accurate record ~~[file with the department a report showing the number]~~ of white-tailed deer and mule deer acquired, purchased, propagated, sold, or disposed of and any other information required



by the department that reasonably relates to the regulation of scientific breeders [possessed under the permit and their disposition]. The record shall be maintained on a form provided by the department. [The report shall also give the results of any research conducted under the permit and must be filed before the 15th day after the date on which the permit expires.]

(b) A scientific breeder shall report the information maintained under Subsection (a) to the department in the time and manner required by commission proclamation.

SECTION 42. Section 43.362, Parks and Wildlife Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) Except as provided by Subchapter C, Chapter 43, no [No] person may purchase or accept in this state a live white-tailed deer or mule deer unless the person obtains a permit for purchasing from the department and:

(1) the white-tailed deer or mule deer is properly marked as [bears a tag] required by Section 43.356(b) [43.356] of this code [and is delivered or sold by a scientific breeder]; or

(2) the white-tailed deer or mule deer is delivered by a common carrier from outside this state.

(c) No person may release into the wild a white-tailed deer or mule deer unless all visible markings required by Section 43.356(b) have been removed.

SECTION 43. Section 43.363(a), Parks and Wildlife Code, is amended to read as follows:

(a) During an open season for taking the white-tailed deer or mule deer or during a period of 10 days before an open season, no [No] scientific breeder may release into the wild or sell or ship to a [another] person other than a person holding a scientific breeder's permit, a white-tailed deer or mule deer and no person in this state, other than a scientific breeder, may purchase from a scientific breeder in this state a white-tailed deer or mule deer [during an open season for taking the white-tailed deer or mule deer or during a period of 10 days before an open season] unless the scientific breeder:

(1) has removed immediately above the pedicle the antlers of a male white-tailed deer or mule deer to be sold or shipped [to another person]; and

(2) has given written notice of the sale to [a game warden commissioned by] the department [who operates in the county of sale;

[(3) has given written notice of the shipment to a game warden commissioned by the department who operates in the county of origin and one who operates in the county of delivery; and

[(4) has received written approval for the sale and shipment from the game wardens required to be notified under this section].

SECTION 44. Section 43.365, Parks and Wildlife Code, is amended to read as follows:

Sec. 43.365. PROHIBITED ACTS. It is an offense if a scientific breeder:

(1) takes, traps, or captures or attempts to take, trap, or capture white-tailed deer or mule deer from the wild;

(2) allows the hunting or killing of a white-tailed deer or mule deer held in captivity under the provisions of this subchapter; or

(3) fails to furnish to a game warden commissioned by the department records required to be maintained under Section 43.359(a) [information as to



~~the source from which white-tailed deer or mule deer held in captivity were derived].~~

SECTION 45. Section 43.522(a), Parks and Wildlife Code, is amended to read as follows:

(a) The department or its agent may issue a conservation permit to any person on the payment to the department or agent of a fee in an amount set by the commission. ~~[The fee charged for a conservation permit may not exceed the amount charged by the department for a combination hunting and fishing license under Section 50.002 of this code.]~~

SECTION 46. Subchapter P, Chapter 43, Parks and Wildlife Code, is amended by adding Section 43.555 to read as follows:

Sec. 43.555. PENALTIES. A person who violates this subchapter or a commission rule issued under this subchapter commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

SECTION 47. Chapter 43, Parks and Wildlife Code, is amended by adding Subchapter R to read as follows:

#### SUBCHAPTER R. DEER MANAGEMENT PERMITS

Sec. 43.601. PERMIT FOR DEER MANAGEMENT. (a) The department may issue a permit for the management of the wild white-tailed deer population on acreage enclosed by a fence capable of retaining white-tailed deer (under reasonable and ordinary circumstances) and capable of preventing entry by a white-tailed deer.

(b) The deer managed under the permit remain the property of the people of the state, and the holder of the permit is considered to be managing the population on behalf of the state.

(c) If a special season with a special bag limit is established by the commission for holders of a deer management permit, the holder of the permit may not receive compensation for granting any other person permission to kill a wild deer during that special season on the acreage covered by the permit.

Sec. 43.602. MANAGEMENT PLAN. (a) The holder of a deer management permit must annually submit a deer management plan for approval or disapproval of the department. The management plan must provide for specific management practices to be applied to the deer population on the acreage, which may include, in addition to other practices:

(1) the temporary detention within an enclosure on the acreage covered by the permit of wild white-tailed deer for the purpose of propagation with other wild deer, and the release of those deer on that acreage;

(2) the killing of wild deer in open seasons established by the commission in a number set in the management plan; or

(3) the killing of wild deer during a special season having a special bag limit established by the commission for this permit.

(b) A management plan approved by the department must be consistent with the regulatory responsibilities of the commission under Chapter 61.

(c) A management plan may not authorize the killing of wild deer within an enclosure designed for the temporary detention of wild deer under Subsection (a)(1).

Sec. 43.603. CONDITIONS; DURATION; FEE. (a) A permit issued under this subchapter is subject to conditions established by the commission, including conditions governing:

(1) the number of deer that may be killed on the property by a single person;

(2) the number and type of deer that may be killed or taken under the permit; and

(3) the number, type, and length of time that deer may be temporarily detained in an enclosure.

(b) The permit is valid for a period prescribed by the department of not less than one year.

(c) The department shall set a fee for the issuance or renewal of a permit in an amount not to exceed \$1,000.

Sec. 43.604. INSPECTION. An authorized employee of the department may inspect at any time without warrant the records required by Section 43.605 and the acreage for which the permit is issued for the purpose of determining the permit holder's compliance with the management plan.

Sec. 43.605. RECORDS. The holder of a permit issued under this subchapter shall maintain, in a form prescribed by the department, an accurate record showing:

(1) the number of white-tailed deer taken during the general open seasons and during any special seasons;

(2) the number of white-tailed deer temporarily detained and released during the permit period; and

(3) any other information required by the department that reasonably relates to the activities covered by the permit.

Sec. 43.606. APPLICATION OF GENERAL LAWS. Except as expressly provided by this subchapter and the terms and conditions of the permit and management plan, the general laws and regulations of this state applicable to white-tailed deer apply to deer on the acreage covered by the permit. This subchapter does not restrict or prohibit the use of high fences on acreage not covered by a management plan.

Sec. 43.607. PENALTY. (a) A person commits an offense if the person:

(1) violates a provision of this subchapter or a regulation of the department adopted under this subchapter;

(2) violates a condition of permit imposed under Section 43.603(a);

(3) fails to maintain records required by Section 43.605; or

(4) kills or allows to be killed a deer temporarily detained under Section 43.602(a)(1).

(b) An offense under Subsections (a)(1)-(3) is a Class C Parks and Wildlife Code misdemeanor.

(c) An offense under Subsection (a)(4) is a Class A Parks and Wildlife Code misdemeanor.

SECTION 48. Section 44.012, Parks and Wildlife Code, is amended to read as follows:

Sec. 44.012. SALE DURING OPEN SEASON. A game animal held under the authority of a license issued under this subchapter may not be sold, traded, transferred, or shipped to any person in any county [No game breeder may sell or ship to another person in this state any antelope or collared peccary, and no person in this state may purchase from a game breeder in this state or any other state any antelope or collared peccary] during an open season in the county of

destination for taking the game animal or during a period of 10 days before ~~the [and after an]~~ open season.

SECTION 49. Section 45.001, Parks and Wildlife Code, is amended to read as follows:

Sec. 45.001. LICENSE REQUIRED. ~~No [(a) Except as provided in Subsection (b) of this section, no]~~ person may possess game birds in captivity for the purpose of propagation or sale ~~[engage in the business of propagating game birds]~~ without first acquiring the proper license authorized to be issued under this chapter.

~~[(b) A person is not required to have a license issued under this chapter if he possesses not more than 12 game birds for personal use only.]~~

SECTION 50. Section 45.003, Parks and Wildlife Code, is amended to read as follows:

Sec. 45.003. TYPES OF LICENSES; FEES. (a) A class 1 commercial game bird breeder's license entitles the holder to possess ~~[engage in the business of propagating game birds for sale or holding game birds]~~ in captivity more than 1,000 game birds. The fee for a class 1 ~~[commercial game bird breeder's]~~ license is \$100 or an amount set by the commission, whichever amount is more.

(b) A class 2 commercial game bird breeder's license entitles the holder to ~~[engage in the business of propagating game birds for sale or holding game birds in captivity, except that the holder of a class 2 license may not]~~ possess in captivity not more than 1,000 game birds during any calendar year. The fee for a class 2 ~~[commercial game bird breeder's]~~ license is \$10 or an amount set by the commission, whichever amount is more.

SECTION 51. Section 45.006, Parks and Wildlife Code, is amended to read as follows:

Sec. 45.006. SALES OF GAME BIRD CARCASSES OR PARTS OF A GAME BIRD. (a) No person may sell, offer for sale, or purchase the carcass or any part of a dead pen-raised game bird unless:

(1) the carcass or part is clearly stamped and marked by the stamp authorized by Subsection (b) ~~[of this section]~~; or

(2) the carcass or part is delivered to the purchaser and is accompanied by a document ~~[in a box, wrapping, or other container]~~ on which is printed or written the name, street address, and identification ~~[the serial]~~ number, if applicable, of the game bird breeder.

(b) Each holder of a license required by this chapter who offers for sale the carcass of a pen-raised game bird may acquire a rubber stamp which, when used, shows the identification ~~[serial]~~ number of the holder of the license.

SECTION 52. Section 45.0061, Parks and Wildlife Code, is amended to read as follows:

Sec. 45.0061. SOURCE OF GAME BIRDS. A person who is not required to possess a commercial game bird breeder's license and who is in possession of a live game bird or part of a dead game bird ~~[under Subsection (b) of Section 45.001]~~ shall, on the request of a game warden commissioned by the department, furnish to the warden a receipt showing the name and street address of the person and the name and street address of ~~[information as to]~~ the source from which any live game bird or part of a dead game bird ~~[birds]~~ in the possession of the person was ~~[were]~~ derived. The receipt must also show the

date of sale and the species and number of live game birds or parts of dead game birds acquired. The failure or refusal to comply with this section is a violation of this chapter.

SECTION 53. Section 45.009, Parks and Wildlife Code, is amended to read as follows:

Sec. 45.009. EXCEPTIONS. (a) ~~[A person may purchase live pheasant from a commercial game bird breeder for any purpose.~~

~~[(b)]~~ A commercial game bird breeder may process ~~[slaughter]~~ game birds for ~~[his]~~ personal consumption at any time.

~~(b) [(c)]~~ This chapter does not apply to a person holding a permit under Section 43.022 ~~[of this code].~~

~~(c) [(d)]~~ Any person owning or operating a ~~[restaurant, hotel, boarding house, club, or other]~~ business where food is sold for consumption, including a restaurant, hotel, boarding house, or club, may sell game birds obtained from a legal source for consumption on the premises of the business.

SECTION 54. Sections 47.001(3)-(5), (9), and (16), Parks and Wildlife Code, are amended to read as follows:

(3) "Wholesale fish dealer" means a person who operates a place of business ~~[and buys]~~ for ~~[the purpose of]~~ selling, offering for sale, canning, preserving, processing, or handling for shipments or sale aquatic products to retail fish dealers, hotels, restaurants, cafes, consumers, or other wholesale fish dealers. The term does not include the holder of a bait-shrimp dealer's license.

(4) "Retail fish dealer" means a person who operates a place of business ~~[and buys]~~ for selling ~~[the purpose of sale or sells]~~ or offering ~~[offers]~~ for sale to a consumer aquatic products, other than aquatic products that are sold by restaurants for and ready for immediate consumption in individual portion servings and that ~~[which]~~ are subject to the limited sales or use tax. For purposes of this subsection, "consumer" does not include a wholesale fish dealer or a hotel, restaurant, cafe, or other retail fish dealer.

(5) "Bait dealer" means a person who catches and sells minnows, fish, shrimp, or other aquatic products for bait ~~[or transports for sale,]~~ or a place of ~~[who is engaged in the]~~ business where ~~[of selling]~~ minnows, fish, shrimp, or other aquatic products are sold, offered for sale, handled, or transported for sale for ~~[fish]~~ bait.

(9) "Place of business" means a permanent structure on land or a motor vehicle required to be registered under Section 502.002, Transportation Code ~~[2, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-2, Vernon's Texas Civil Statutes)],~~ where aquatic products or orders for aquatic products are received or where aquatic products are sold or purchased but does not include a boat or any type of floating device, a public cold storage vault, the portion of a structure that is used as a residence, or a vehicle from which no orders are taken or no shipments or deliveries are made other than to the place of business of a licensee in this state.

(16) "Aquatic product" means any live or dead, uncooked, fresh or frozen aquatic animal life.

SECTION 55. Section 47.003(d), Parks and Wildlife Code, is amended to read as follows:

(d) No person may be issued a commercial finfish fisherman's license

unless the person files with the department at the time the person [he] applies for the license an affidavit containing statements that:

(1) ~~[not less than 50 percent of the applicant's gainful employment is devoted to commercial fishing;~~

~~[(2)]~~ the applicant is not employed at any full-time occupation other than commercial fishing; and

(2) ~~[(3)]~~ during the period of validity of the commercial finfish fisherman's license the applicant does not intend to engage in any full-time occupation other than commercial fishing.

SECTION 56. Section 47.004, Parks and Wildlife Code, is amended by adding Subsection (c) to read as follows:

(c) The commission may adopt rules governing the issuance and use of a fishing guide license.

SECTION 57. Section 47.009(c), Parks and Wildlife Code, is amended to read as follows:

(c) A person who has an aquaculture [~~a fish farming~~] license for a Texas aquaculture facility under Section 134.011, Agriculture Code, is not required to obtain or possess a wholesale fish dealer's license if the person's business activities with regard to the sale of aquatic products [~~fish~~] involve aquatic products [~~fish~~] raised on the person's aquaculture facility [~~fish farm~~] only.

SECTION 58. Section 47.010, Parks and Wildlife Code, is amended to read as follows:

Sec. 47.010. WHOLESALE TRUCK DEALER'S FISH LICENSE. (a) The license fee for a wholesale truck dealer's fish license is \$250 for each truck or an amount set by the commission, whichever amount is more.

(b) A resident who holds a fish farm vehicle license under Section 134.012, Agriculture Code, is not required to obtain a license for the vehicle under this section if the vehicle is used with regard to the sale or transportation of only aquatic products raised on a licensed Texas aquaculture facility belonging to the owner of the vehicle.

SECTION 59. Section 47.011(c), Parks and Wildlife Code, is amended to read as follows:

(c) A person with an aquaculture [~~a fish farming~~] license for a Texas aquaculture facility under Section 134.011, Agriculture Code, is not required to obtain or possess a retail fish dealer's license if the person's business activities with regard to the sale of aquatic products [~~fish~~] involve aquatic products [~~fish~~] raised on the person's aquaculture facility [~~fish farm~~] only.

SECTION 60. Section 47.013(c), Parks and Wildlife Code, is amended to read as follows:

(c) A resident [~~person~~] who owns a vehicle licensed under Section 134.012, Agriculture Code, is not required to obtain a license for the vehicle under this section when the vehicle is used with regard to the sale or transportation of only aquatic products raised on a licensed Texas aquaculture facility [~~fish farm~~] belonging to the owner of the vehicle.

SECTION 61. Section 47.014, Parks and Wildlife Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) No person may engage in business [~~act~~] as a bait dealer unless the person [he] has obtained the appropriate [~~a~~] bait dealer's license.

(c) A person who has an aquaculture license for a Texas aquaculture facility under Section 134.011, Agriculture Code, is not required to obtain or possess a bait dealer's license if the person's business activities with regard to the sale of aquatic products for bait involve only aquatic products raised on the person's aquaculture facility.

SECTION 62. Section 47.018(a), Parks and Wildlife Code, is amended to read as follows:

(a) No person may bring into this state and deliver aquatic products for ~~[any]~~ commercial ~~purposes~~ ~~[purpose]~~ unless the person ~~[he]~~ has obtained a wholesale fish dealer's license, ~~[or] a retail fish dealer's license, or a bait dealer's license, as applicable,~~ issued under this subchapter.

SECTION 63. Section 47.0181(a), Parks and Wildlife Code, is amended to read as follows:

(a) No person, except a commercial fisherman licensed to take aquatic products from Texas waters transporting the fisherman's own catch within this state, may transport aquatic products for commercial purposes, regardless of origin or destination, without an invoice containing the following information correctly stated and legibly written:

- (1) the invoice number;
- (2) the date of shipment;
- (3) the name and physical address of shipper;
- (4) the name and physical address of receiver;
- (5) the license number of shipper; and
- (6) the quantity of aquatic products contained in the shipment; finfish

by species and by ~~[:]~~ number or ~~[and]~~ weight, oysters by volume, and all other aquatic products by weight.

SECTION 64. Section 47.031(b), Parks and Wildlife Code, is amended to read as follows:

(b) All licenses and permits issued under the authority of Chapter 47 ~~[of this code]~~ may not be transferred to another person except that a license issued in the name of a business shall remain valid for the business location specified on the license or permit if a change of ownership and/or business name occurs. A license issued under the authority of Section 47.009, ~~[or] 47.011, [or] 47.014,~~ or 47.016 may be transferred to a new address if the business moves to another location. A license issued under the authority of Section ~~47.007,~~ 47.010, or 47.013 may be transferred to another vehicle or vessel or to a new owner of the same vehicle or vessel. The commission, by regulation, may prescribe requirements necessary to clarify license and permit transfer procedures and may prescribe, by regulation, forms to be used and fees to be charged for transfer of licenses and permits in this chapter and for duplicate license plates and duplicate or replacement licenses and permits.

SECTION 65. Section 49.001, Parks and Wildlife Code, is amended by adding Subdivision (3) to read as follows:

(3) "Falconry" means the practice of trapping, possessing, training, or flying a raptor for hunting purposes and includes the act of hunting by the use of a trained raptor.

SECTION 66. Section 49.002, Parks and Wildlife Code, is amended to read as follows:

Sec. 49.002. PROHIBITED ACTS. (a) Except as provided in Subsection (b) ~~[of this section]~~, no person may take, capture, or possess, or attempt to take or capture, any native raptors unless the person [he] has obtained a permit issued by the department [under this chapter].

(b) A nonresident may temporarily possess in this state or transport through this state any raptor if the person is authorized by state and federal permits to possess the raptor in the person's state of residence or has been issued a permit under Chapter 43 [person may collect and hold protected species of wildlife for scientific, zoological, and propagation purposes if he holds a permit issued by the department for that purpose].

SECTION 67. Section 49.003, Parks and Wildlife Code, is amended to read as follows:

Sec. 49.003. RECIPROCITY [APPRENTICE FALCONER'S PERMIT]. A person in possession of a raptor under a license issued by another state who intends to establish residency in this state must apply to the department for a falconry permit not later than the 10th day after the date the person first moves a raptor into this state. A signed and notarized affidavit stating the person's intent to establish residency in this state must accompany the application. [The department may issue an apprentice falconer's permit to any person who:

[(1) is at least 14 years of age;

[(2) is sponsored by the holder of a general falconer's or a master falconer's permit;

[(3) submits an application on forms prescribed by the department; and

[(4) submits an original permit fee of \$30 or an amount set by the commission, whichever amount is more.]

SECTION 68. Section 49.010, Parks and Wildlife Code, is amended to read as follows:

Sec. 49.010. HUNTING. (a) A resident possessing [The holder of] a falconry [valid] permit [issued under this chapter] and a [valid] hunting license may hunt by means of falconry [native species of wild birds, wild animals, and migratory game birds during the open season and may hunt unprotected species of wildlife].

(b) A nonresident may hunt by means of falconry if the nonresident possesses on the nonresident's person:

(1) a federal falconry permit;

(2) a falconry permit issued in the person's state of residence; and

(3) a nonresident hunting license and any applicable stamps.

(c) A person may hunt a bird or animal by means of falconry only during an open season provided for that bird or animal.

SECTION 69. Section 49.011, Parks and Wildlife Code, is amended to read as follows:

Sec. 49.011. TRANSFER OR SALE OF RAPTORS. (a) Except as permitted in Subsections (b) and (c) ~~[of this section]~~, no person may buy, sell, barter, or exchange, or offer to buy, sell, barter, or exchange, a raptor in this state.

(b) The holder of a falconer's permit may transfer [,- with approval of the department, exchange] a raptor to [with] another holder of a falconer's permit or receive a raptor from another holder of a falconer's permit [if there is no consideration for the exchange other than the raptors exchanged].



(c) ~~A [The] holder of a [general or master] falconer's permit who qualifies as prescribed by commission rule may [arrange for the] purchase [of legal] raptors [by correspondence or telephone] from any legal source and may sell captive-bred raptors to any person permitted to purchase captive-bred raptors [a lawfully permitted person in another state where the sale of raptors is lawful; provided, however, such raptors may not be resold in this state].~~

SECTION 70. Section 49.014, Parks and Wildlife Code, is amended to read as follows:

Sec. 49.014. POWERS OF DEPARTMENT. The department may:

(1) prescribe ~~[reasonable] rules [and regulations]~~ for the taking, capture, possession, propagation, transportation, export, import, and sale of [taking and possessing] raptors, time and area from which raptors may be taken or captured, and species that may be taken or captured;

(2) provide standards for possessing and housing raptors held under a permit;

(3) prescribe annual reporting requirements and procedures;

(4) prescribe eligibility requirements and fees for and issue any falconry, raptor propagation, or nonresident trapping permit; and

(5) require and regulate the identification of raptors held by permit holders.

SECTION 71. Section 61.003, Parks and Wildlife Code, is amended to read as follows:

Sec. 61.003. APPLICABILITY OF CHAPTER. ~~This [Title 7 of this code prescribes the counties, places, and wildlife resources to which this] chapter applies to every county, place, and wildlife resource in the state, except as otherwise provided by this code.~~

SECTION 72. Section 61.005, Parks and Wildlife Code, is amended to read as follows:

Sec. 61.005. DEFINITIONS. In this chapter:

(1) ~~["Hunt" includes take, kill, pursue, trap, and the attempt to take, kill, or trap.~~

~~[(2)]~~ "Wildlife resources" means all wild [game] animals, wild [game] birds, and [marine animals, fish, and other] aquatic animal life.

(2) ~~[(3)]~~ "Depletion" means the reduction of a species below its immediate recuperative potential by any ~~[deleterious]~~ cause.

(3) ~~[(4)]~~ "Waste" means the failure to provide for the regulated harvest of surplus wildlife resources when that harvest would allow, promote, or optimize a healthy and self-sustaining population of a [supply of a species or one sex of a species in sufficient numbers that a seasonal harvest will aid in the reestablishment of a normal number of the] species.

~~[(5)]~~ "Daily bag limit" means the quantity of a species of game that may be taken in one day.

~~[(6)]~~ "Possession limit" means the maximum number of a species of game that may be possessed at one time.;

SECTION 73. Section 61.022, Parks and Wildlife Code, is amended to read as follows:

Sec. 61.022. TAKING WILDLIFE RESOURCES WITHOUT CONSENT OF LANDOWNER PROHIBITED. No person may hunt or [;] catch by any means or method [;] or possess a wildlife resource [game animal or game bird,



~~fish, marine animal, or other aquatic life~~] at any time and at any place covered by this chapter unless the owner of the land or water, or the owner's agent, consents.

SECTION 74. Subchapter B, Chapter 61, Parks and Wildlife Code, is amended by adding Section 61.023 to read as follows:

Sec. 61.023. APPLYING CONTRACEPTIVES TO WILDLIFE RESOURCES. No person may intentionally apply contraceptives to any vertebrate wildlife resource unless the person first obtains written authorization from the department.

SECTION 75. Section 61.051, Parks and Wildlife Code, is amended to read as follows:

Sec. 61.051. DUTY TO INVESTIGATE AND STUDY CERTAIN WILDLIFE RESOURCES. (a) The department shall conduct scientific studies and investigations of all species of game animals, game birds, and aquatic animal life [~~wildlife resources~~] to determine:

- (1) supply;
- (2) economic value;
- (3) environments;
- (4) breeding habits;
- (5) sex ratios; and
- (6) effects of [~~hunting, trapping, fishing, disease, infestation, predation, agricultural pressure, and overpopulation; and~~
- (7)] any [~~other~~] factors or conditions causing increases or decreases in supply.

(b) The studies and investigations may be made periodically or continuously.

(c) The commission shall make findings of fact based on the studies and investigations of the department.

SECTION 76. Section 61.052, Parks and Wildlife Code, is amended to read as follows:

Sec. 61.052. GENERAL REGULATORY DUTY. (a) The commission shall regulate the periods of time when it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life [~~wildlife resources~~] in or from the places covered by this chapter.

(b) The commission shall regulate the means, methods, [~~manners,~~] and places in which it is lawful to hunt, take, or possess game animals, game birds, or aquatic animal life [~~wildlife resources~~] in or from the places covered by this chapter.

SECTION 77. Section 61.053, Parks and Wildlife Code, is amended to read as follows:

Sec. 61.053. OPEN SEASONS. The commission shall provide open seasons for the hunting, taking, or possession of game animals, game birds, or aquatic animal life [~~wildlife resources~~] if its investigations and findings of fact reveal that open seasons may be safely provided or if the threat of waste requires an open season to conserve game animals, game birds, or aquatic animal life [~~wildlife resources~~].

SECTION 78. Section 61.054, Parks and Wildlife Code, is amended to read as follows:

Sec. 61.054. PROCLAMATIONS OF THE COMMISSION. (a) Regulation of the hunting, taking, or possession of game animals, game birds, or aquatic animal life [~~wildlife resources~~] under this chapter shall be by proclamation of the commission.

(b) A proclamation of the commission authorizing the hunting, taking, or possession of game animals, game birds, or aquatic animal life [~~wildlife resources~~] must specify:

(1) the species, quantity, age or size, and, to the extent possible, the sex of the game animals, game birds, or aquatic animal life [~~wildlife resources~~] authorized to be hunted, taken, or possessed;

(2) the means or [~~;~~] method[~~, or manner~~] that may be used to hunt, take, or possess the game animals, game birds, or aquatic animal life [~~wildlife resources~~]; and

(3) the region, county, area, body of water, or portion of a county where the game animals, game birds, or aquatic animal life [~~wildlife resources~~] may be hunted, taken, or possessed.

SECTION 79. Section 61.055(a), Parks and Wildlife Code, is amended to read as follows:

(a) If the commission finds that there is a danger of depletion or waste, it shall amend or revoke its proclamations to prevent the depletion or waste and to provide to the people the most equitable and reasonable privilege to hunt game animals or game birds or catch aquatic animal life [~~pursue, take, possess, and kill wildlife resources~~].

SECTION 80. Subchapter C, Chapter 61, Parks and Wildlife Code, is amended by adding Section 61.058 to read as follows:

Sec. 61.058. YOUTH HUNTING AND FISHING. (a) The commission may provide for special open seasons during which the taking and possession of game animals and game birds are restricted to persons under 17 years old.

(b) The commission may provide for special means and methods for the taking and possession of aquatic animal life by persons under 17 years old.

SECTION 81. Section 61.101(a), Parks and Wildlife Code, is amended to read as follows:

(a) Before a proclamation of the commission may be adopted, the department shall hold public hearings[~~:~~

[~~(H)~~] in the county to be affected by the proclamation if the director or the director's [~~his~~] designee receives a petition for a public hearing signed by not less than 25 persons who reside in the county[~~; and~~

[~~(2) in at least five locations the director or his designee considers necessary to ensure public participation~~].

SECTION 82. Section 61.205(d), Parks and Wildlife Code, is amended to read as follows:

(d) The department may authorize the sale, trade, auction, or donation of [~~A person may not sell or trade~~] a bighorn sheep hunting permit if the proceeds of the sale, trade, auction, or donation are used to restore, protect, or manage bighorn sheep [~~for anything of value~~].

SECTION 83. Section 62.005, Parks and Wildlife Code, is amended to read as follows:

Sec. 62.005. HUNTING WITH LIGHT. [~~(a)~~] No person may hunt a game

[an] animal or bird protected by this code with the aid of ~~[a headlight, hunting lamp, or other artificial light, including]~~ an artificial light that casts or reflects a beam of light onto or otherwise illuminates the game animal or bird, including the headlights of [attached to] a motor vehicle.

~~[(b) The possession of a headlight or hunting lamp used on or about the head when hunting at night between sunset and one-half hour before sunrise by a person hunting in an area where deer are known to range constitutes prima facie evidence that the person was violating this section.]~~

SECTION 84. Section 62.014(a)(2), Parks and Wildlife Code, is amended to read as follows:

(2) "Archery equipment" means a long bow, recurved bow, or compound bow ~~[that is capable of shooting a hunting arrow equipped with a broadhead hunting point for a distance of 130 yards].~~

SECTION 85. Sections 62.014(b), (c), and (d), Parks and Wildlife Code, are amended to read as follows:

(b) The department may establish and administer a statewide hunter education program. The program must include but is not limited to instruction concerning:

(1) the safe handling and use of firearms, ~~[and]~~ archery equipment, and crossbows;

(2) wildlife conservation and management;

(3) hunting laws and applicable rules and regulations; and

(4) hunting safety and ethics, including landowners' rights.

(c) The department shall issue a certificate to a person who has successfully completed a hunter education course. The department shall prescribe the form of the certificate.

(d) If funds are available for its implementation the commission may establish a mandatory hunter education program and may require a person to have successfully completed a training course before the person may hunt with firearms, ~~[or]~~ archery equipment as defined in Subsection (a) of this section, or crossbows in Texas. If the certificate is so required, the person must possess the certificate or other evidence of completion of the program while hunting with firearms, ~~[or]~~ archery equipment as defined in Subsection (a) of this section, or crossbows. The commission may provide that residents or nonresidents who have successfully completed the same or a comparable hunter education course and possess a certificate or other evidence of completion have satisfied the requirements imposed under this subsection. The commission may establish a minimum age for participation in the program. Those persons who cannot participate in the hunter education program because they do not meet the minimum age or other requirements established by the commission can only hunt with firearms, ~~[or]~~ archery equipment as defined in Subsection (a) of this section, or crossbows in Texas if they are accompanied by a person who is 17 years of age or older and licensed to hunt in Texas. Additionally, a person under 17 years of age hunting with a person licensed to hunt in Texas who is 17 years of age or older is not required to have certification under this Act.

The commission may implement the program by age group. Persons who are 17 years of age or older on September 1, 1988, or on the date on which a mandatory hunter education course is implemented, whichever is later, are exempt from the requirements imposed under this subsection.

The department is responsible for offering mandatory hunter education courses that are accessible to those persons required to take this course. To this end, the department shall provide hunter education opportunities in each county of the state when a substantial number of residents request a class or at least once a year.

SECTION 86. Section 62.021, Parks and Wildlife Code, is amended to read as follows:

Sec. 62.021. SALE OR PURCHASE OF CERTAIN GAME. (a) Except as provided by Subsection (c), no [No] person may sell, offer for sale, purchase, offer to purchase, or possess after purchase a wild bird, ~~[wild]~~ game bird, or ~~[wild]~~ game animal, dead or alive, or part of the bird or animal.

(b) This section applies only to a bird or animal protected by this code without regard to whether the bird or animal is taken or killed in this state.

(c) This section does not prohibit the sale of:

(1) a live game animal, a dead or live game bird, or the feathers of a game bird if the sale is conducted under authority of a license or permit issued under this code; or

(2) an inedible part, including the hide, antlers, bones, hooves, or sinew of a deer. ~~[Subsection (a) of this section does not apply to deer hides.~~

~~[(d) The commission by proclamation shall authorize and regulate the sale, purchase, and possession after purchase of deer antlers.]~~

SECTION 87. Section 62.029, Parks and Wildlife Code, is amended to read as follows:

Sec. 62.029. RECORDS OF GAME IN COLD STORAGE OR PROCESSING FACILITY. (a) As used in this section, "cold storage or processing facility" has the meaning assigned by Section 42.001 ~~[a "public cold storage plant" is any plant in which game is stored for a person other than the owner of the plant].~~

(b) The owner, ~~[or] operator, or lessee~~ of a ~~[public] cold storage or processing facility [plant]~~ shall maintain a book containing a record of:

(1) the name, address, and hunting license number of each person who killed [placing] a game bird or game animal that is placed in the facility [storage];

(2) the name and address of each person who places a game bird or game animal in the facility, if different from the person who killed the bird or animal;

(3) the number and kind of game birds or game animals placed in the facility [storage]; and

(4) ~~[(3)]~~ the date on which each game bird or game animal is placed in the facility [storage].

(c) The owner, operator, or lessee shall enter all information into the book as required by this section before placing in storage or processing any game animal or game bird.

(d) The cold storage or processing facility record book shall be kept at the facility and [by the owner or operator of a public cold storage plant] may be inspected by an authorized employee of the department during business hours or at any other reasonable time.

(e) Each cold storage or processing facility record book shall be kept at the facility until the first anniversary of the date of the last entry in the book.

SECTION 88. Section 62.030, Parks and Wildlife Code, is amended to read as follows:

Sec. 62.030. POSSESSION OF GAME IN COLD STORAGE OR PROCESSING FACILITY. A person may place and maintain, or possess, in a cold storage or processing facility [~~public or private storage plant, refrigerator, or locker~~] lawfully [~~taken or~~] killed game birds and [-] game animals[-; waterfowl, or migratory waterfowl] not in excess of the number permitted to be possessed by law.

SECTION 89. Section 62.031, Parks and Wildlife Code, is amended to read as follows:

Sec. 62.031. INSPECTIONS OF [STORAGE] FACILITIES. (a) Authorized employees of the department may enter and inspect a [~~public~~] cold storage or processing facility [~~plant~~] or other place, including taxidermist shops and tanneries, where protected wildlife are stored.

(b) In this section "protected wildlife" means game animals, [~~and~~] game birds, [~~and~~] nongame animals, and nongame birds that are the subject of any protective law or regulation of this state or the United States.

(c) Inspections under this section may be made during normal business hours or at any other reasonable time [~~when the facilities are open to the public generally but may include areas within a facility not generally open to the public~~].

SECTION 90. Section 62.082, Parks and Wildlife Code, is amended to read as follows:

Sec. 62.082. TARGET RANGES AND MANAGED HUNTS. (a) The Board of Directors of the Lower Colorado River Authority may lease river authority land to be used on a nonprofit basis for a target rifle or archery range [~~only and not for hunting~~].

(b) A member of the boy scouts or the girl scouts or other nonprofit public service group or organization may possess and shoot a firearm, bow, and crossbow for target or instructional purposes under the supervision of a qualified instructor registered with and approved by the Lower Colorado River Authority on ranges designated by the Lower Colorado River Authority. [~~This subsection does not permit hunting by any person.~~]

(c) The Board of Directors of the Lower Colorado River Authority may authorize lawful hunting on Lower Colorado River Authority lands, consistent with sound biological management practices.

(d) Section 62.081 does not apply to an employee of the Lower Colorado River Authority, a person authorized to hunt under Subsection (c), or a peace officer as defined by Article 2.12, Code of Criminal Procedure.

SECTION 91. Subchapter A, Chapter 63, Parks and Wildlife Code, is amended by adding Section 63.002 to read as follows:

Sec. 63.002. POSSESSION OF LIVE GAME ANIMALS. No person may possess a live game animal in this state for any purpose not authorized by this code.

SECTION 92. Section 64.002, Parks and Wildlife Code, is amended to read as follows:

Sec. 64.002. PROTECTION OF NONGAME BIRDS. (a) Except as provided by [~~in this section, Chapter 67, or Section 12.013 of~~] this code, no person may:

(1) catch, kill, injure, pursue, or possess, dead or alive, or purchase, sell, expose for sale, transport, ship, or receive or deliver for transportation, a bird that is not a game bird;

(2) possess any part of the plumage, skin, or body of a bird that is not a game bird; or

(3) disturb or destroy the eggs, nest, or young of a bird that is not a game bird.

(b) European starlings, English sparrows, and ~~[grackles, ravens, red-winged blackbirds, cowbirds,]~~ feral rock doves (*Columba livia*)~~[-, and crows]~~ may be killed at any time and their nests or eggs may be destroyed.

(c) A permit is not required to control yellow-headed, red-winged, rusty, or Brewer's blackbirds or all grackles, cowbirds, crows, or magpies when found committing or about to commit depredations on ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in numbers and in a manner that constitutes a health hazard or other nuisance.

(d) Canaries, parrots, and other exotic nongame birds may be sold, purchased, and kept as domestic pets.

SECTION 93. Subchapter A, Chapter 64, Parks and Wildlife Code, is amended by adding Section 64.007 to read as follows:

Sec. 64.007. POSSESSION OF LIVE GAME BIRDS. No person may possess a live game bird in this state except as authorized by this code.

SECTION 94. Section 64.022, Parks and Wildlife Code, is amended to read as follows:

Sec. 64.022. AUTHORITY OF COMMISSION ~~[DEPARTMENT]~~. The commission ~~[department]~~ shall provide the open season~~[-]~~ and means, methods, and devices for the hunting ~~[taking]~~ and possessing of migratory game birds and may delegate that authority to the executive director.

SECTION 95. Sections 64.024(b) and (c), Parks and Wildlife Code, are amended to read as follows:

(b) ~~[A regulation issued by the department must be incorporated in the minutes of the meeting at which it was adopted, and a copy of the regulation must be filed with the secretary of state and each county clerk and county attorney:~~

~~[(c)]~~ The commission may adopt an emergency regulation governing the hunting ~~[taking]~~ or possession of migratory game birds if the commission finds that an emergency condition affecting the supply or condition of migratory game birds exists.

SECTION 96. Section 64.026, Parks and Wildlife Code, is amended to read as follows:

Sec. 64.026. PROHIBITED ACTS. No person may hunt or possess a migratory game bird by any means or method ~~[or device]~~ except as provided by regulation issued under this code ~~[subchapter]~~.

SECTION 97. Section 65.001, Parks and Wildlife Code, is amended to read as follows:

Sec. 65.001. DEFINITIONS. In this chapter:

(1) "Alligator" means a living or dead American alligator (*Alligator mississippiensis*).

(2) ~~["Alligator buyer" means a person who buys alligators, alligator hides, or any part of an alligator:~~

~~(3)~~ "Alligator hunter" means a person who takes an alligator, an alligator egg, ~~dead or live alligators~~ or any part of an alligator.

(3) ~~(4)~~ "Possess" means the act of having in possession or control, keeping, detaining, restraining, or holding as owner or as agent, bailee, or custodian for another.

(4) ~~(5)~~ "Take" means the act of hooking, netting, snaring, trapping, pursuing, shooting, killing, ~~or~~ capturing, or collecting by any means or device and includes the attempt to take by the use of any method.

(5) ~~(6)~~ "Resident" means an individual who has resided continuously in this state during the ~~[for more than]~~ six months preceding the individual's application ~~[immediately before applying]~~ for any ~~[an alligator hunter's or alligator buyer's]~~ license or permit issued under this chapter.

(6) ~~(7)~~ "Nonresident" means an individual who is not a resident.

SECTION 98. Section 65.003, Parks and Wildlife Code, is amended to read as follows:

Sec. 65.003. REGULATIONS. (a) The commission may regulate by proclamation the taking, possession, propagation, transportation, exportation, importation, sale, and offering for sale of alligators, alligator eggs, or any part of an alligator that the commission considers necessary to manage this species.

(b) The regulations of the commission under this chapter may provide for:

(1) permit application forms, fees, and procedures;

(2) hearing procedures;

(3) the periods of time when it is lawful to take, possess, sell, or purchase alligators, alligator hides, alligator eggs, or any part of an alligator; ~~and~~

(4) limits, size, means, methods, ~~[manner,]~~ and places in which it is lawful to take or possess alligators, alligator hides, alligator eggs, or any part of an alligator; and

(5) control of nuisance alligators.

SECTION 99. Section 65.005, Parks and Wildlife Code, is amended to read as follows:

Sec. 65.005. POSSESSION. ~~[(a)]~~ No person may take, sell, purchase, or possess an alligator, ~~[the egg of]~~ an alligator egg, or any part of an alligator in this state except as permitted by the regulations of the commission.

~~[(b) This chapter does not prohibit consumers from purchasing or possessing goods processed or manufactured from alligators that have been taken in accordance with the law.]~~

SECTION 100. Section 65.006, Parks and Wildlife Code, is amended to read as follows:

Sec. 65.006. LICENSE REQUIRED. (a) No person may take, attempt to take, or possess ~~[, or accompany another person who is attempting to take]~~ an alligator in this state ~~[during the open season established by the commission for taking alligators]~~ unless the person ~~[he]~~ has acquired and possesses an alligator hunter's license.

(b) No ~~[Except as provided by Section 65.005(b) of this code, no]~~ person for any purpose may possess, purchase, or possess after purchase an alligator, an alligator hide, an alligator egg, or any part of an alligator taken in this state unless:



(1) the person [he] has acquired and possesses a permit issued by the department for that purpose; or

(2) a regulation of the commission otherwise allows the possession or purchase without a permit [an alligator buyer's license].

SECTION 101. Section 65.007, Parks and Wildlife Code, is amended to read as follows:

Sec. 65.007. LICENSE FEES. The fees for the licenses issued under this chapter are in the following amounts or in amounts set by the commission, whichever amounts are more:

(1) \$25 for a resident alligator hunter's license; and

(2) ~~[\$150 for a resident alligator buyer's license;~~

~~[(3)] \$50 for a nonresident alligator hunter's license[; and~~

~~[(4)] \$300 for a nonresident alligator buyer's license].~~

SECTION 102. Section 66.002(a), Parks and Wildlife Code, is amended to read as follows:

(a) No person may catch, take, or attempt to catch or take any aquatic animal life [fish] by any means or method from [the use of a net or seine or explosive or by poisoning, polluting, muddying, ditching, or draining in] any privately owned waters [lake, pool, or pond] without the consent of the landowner or the landowner's agent [owner].

SECTION 103. Section 66.003(b), Parks and Wildlife Code, is amended to read as follows:

(b) Subsection (a) of this section does not apply to the use of explosives necessary for construction purposes when the use is authorized in writing by the department [county judge of the county where the work is to be done].

SECTION 104. Section 66.014(a), Parks and Wildlife Code, is amended to read as follows:

(a) No person may transport any aquatic product for commercial purposes unless the person clearly identifies the motor vehicle, trailer, or semitrailer as a vehicle that carries aquatic products. The commission shall prescribe by proclamation the identification requirements for a motor vehicle, trailer, or semitrailer transporting aquatic products, and the commission may prescribe that the identification shall list the state of origin of the aquatic products. In this subsection, "motor vehicle," "trailer," and "semitrailer" ["semitrailer,"] have the meanings assigned [meaning given those terms] by Section 541.201, Transportation Code [the Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes)].

SECTION 105. Section 66.015(d), Parks and Wildlife Code, is amended to read as follows:

(d) Subsection (b) of this [This] section does not apply to native, nongame fish as defined by the commission, except in waters designated by the commission where threatened or endangered fish are present.

SECTION 106. Section 66.109(a), Parks and Wildlife Code, is amended to read as follows:

(a) The department [commissioners court of each county], by written order, may require the owner of a public or private dam or other obstruction on a regularly flowing public freshwater stream to construct or repair fishways or fish ladders sufficient to allow fish in all seasons to ascend or descend the dam or other obstruction for the purpose of depositing spawn.



SECTION 107. Section 66.2011, Parks and Wildlife Code, is amended to read as follows:

Sec. 66.2011. RED DRUM AND SPECKLED SEA TROUT: PENALTIES [~~DAILY CATCH AND RETENTION LIMITS~~]. [~~(a) No person may:~~

[~~(1) catch and retain in one day more than 10 red drum;~~  
~~(2) possess at one time more than 20 red drum;~~  
~~(3) possess at one time more than two red drum longer than 35 inches; or~~

[~~(4) catch and retain a red drum shorter than 14 inches.~~

[~~(b) No person may:~~

[~~(1) catch and retain in one day more than 20 speckled sea trout;~~

[~~(2) possess at one time more than 40 speckled sea trout; or~~

[~~(3) catch and retain a speckled sea trout shorter than 12 inches.~~

[~~(c) Daily catch, retention, and size limits for redfish and speckled sea trout set by the commission under the Wildlife Conservation Act of 1983 (Chapter 61 of this code) prevail over the limits under this section. If the commission does not set catch, retention, and size limits for redfish and speckled sea trout under the conservation Act, this section applies.~~

[~~(d) In addition to the penalty provided in Section 66.218 [of this code], a person who violates [this section or] a proclamation issued under [this section or under] Chapter 61 shall have all equipment, other than vessels, in the person's [his] possession used for the taking of red drum or speckled sea trout confiscated. A person who violates [this section or] a proclamation issued under [this section or under] Chapter 61 three or more times within a five-year period shall have all equipment, including vessels, in the person's [his] possession used for the taking of redfish or speckled sea trout confiscated.~~

SECTION 108. Sections 66.2012(d)-(f), Parks and Wildlife Code, are amended to read as follows:

(d) A proclamation of the commission under this section prevails over any conflicting provision of Section 66.020 [~~Sections 66.201 and 66.2011 of this code~~] to the extent of the conflict and only during the period that the proclamation is in effect.

(e) This section does not apply to activities that are regulated under the exceptions provided by Subdivisions (1), (2), and (3) of Section 66.020(b) [~~66.201(e) of this code~~] or under Subsections (f) and (g) of that section.

(f) A person who violates a proclamation issued under Subsection (a) [~~of this section~~] is guilty of an offense and is punishable for the first and subsequent offenses by the penalties prescribed by Sections 66.2011 [~~66.2011(d)~~] and 66.218 [~~of this code~~].

SECTION 109. Section 67.001, Parks and Wildlife Code, is amended to read as follows:

Sec. 67.001. DEFINITION[~~-REGULATIONS~~]. [~~(a)~~] In this chapter, "nongame" means those species of vertebrate and invertebrate wildlife indigenous to Texas[~~, and elk east of the Pecos,~~] that are not classified as game animals, game birds, game fish, fur-bearing animals, endangered species, alligators, marine penaeid shrimp, or oysters.

[~~(b) The commission by regulation shall establish any limitations on the~~

~~taking, possession, transportation, exportation, sale, and offering for sale of nongame fish and wildlife that the department considers necessary to manage these species:]~~

SECTION 110. Section 67.004, Parks and Wildlife Code, is amended to read as follows:

Sec. 67.004. ISSUANCE OF REGULATIONS. (a) The commission by regulation shall establish any limits on the taking, possession, propagation, transportation, importation, exportation, sale, or offering for sale of nongame fish or wildlife that the department considers necessary to manage the species.

(b) The regulations shall state the name of the species or subspecies, by common and scientific name, that the department determines to be in need of management under this chapter.

~~[(b) The department shall conduct a public hearing on all proposed regulations and shall publish notice of the hearing in at least three major newspapers of general circulation in this state at least one week before the date of the hearing.]~~

~~[(c) The department shall solicit comments on the proposed regulations at the public hearing and by other means.]~~

~~[(d) On the basis of the information received at the hearing or by other means, the department may modify a proposed regulation.]~~

~~[(e) Regulations become effective 60 days after the date they are proposed unless withdrawn by the department.]~~

SECTION 111. Section 67.0041, Parks and Wildlife Code, is amended to read as follows:

Sec. 67.0041. REGULATIONS AND PERMITS. (a) The department may issue permits for the taking, possession, propagation, transportation, sale, importation, or exportation of a nongame species of fish or wildlife if necessary to properly manage that species.

(b) The department may charge a fee for a permit issued under this section ~~[for a commercial activity]~~. The fee shall be set by the commission.

SECTION 112. Sections 68.014 and 68.015, Parks and Wildlife Code, are amended to read as follows:

Sec. 68.014. REGULATIONS. The department shall make regulations necessary to administer the provisions of this chapter and to attain its objectives, including regulations to govern:

- (1) permit application forms, fees, and procedures;
- (2) hearing procedures;
- (3) procedures for identifying endangered fish and wildlife or goods made from endangered fish or wildlife which may be possessed, propagated, or sold under this chapter; ~~[and]~~
- (4) publication and distribution of lists of species and subspecies of endangered fish or wildlife and their products; and

(5) limitations on the capture, trapping, taking, or killing, or attempting to capture, trap, take, or kill, and the possession, transportation, exportation, sale, and offering for sale of endangered species.

Sec. 68.015. PROHIBITED ACTS. (a) No person may capture, trap, take, or kill, or attempt to capture, trap, take, or kill, endangered fish or wildlife.

(b) No person may possess, sell, distribute, or offer or advertise for sale

endangered fish or wildlife unless the fish or wildlife have been lawfully born and raised in captivity for commercial purposes under the provisions of this chapter.

(c) ~~(b)~~ No person may possess, sell, distribute, or offer or advertise for sale any goods made from endangered fish or wildlife unless:

(1) the goods were made from fish or wildlife that were born and raised in captivity for commercial purposes under the provisions of this chapter; or

(2) the goods were made from fish or wildlife lawfully taken in another state and the person presents documented evidence to the department to substantiate that fact.

(d) ~~(c)~~ No person may sell, advertise, or offer for sale any species of fish or wildlife not classified as endangered under the name of any endangered fish or wildlife.

SECTION 113. Sections 71.005(b)-(d), Parks and Wildlife Code, are amended to read as follows:

(b) Except as provided by commission regulation, no ~~No~~ person may purchase, ~~or~~ possess after purchase, or transport for commercial purposes a pelt or carcass taken in this state unless the person ~~he~~ has acquired and possesses a retail fur buyer's or wholesale fur dealer's license.

(c) No person may capture ~~take~~ or possess a live fur-bearing animal for any ~~the~~ purpose, except as otherwise authorized by this code, ~~[of propagation or sale]~~ unless he has acquired and possesses a fur-bearing animal propagation license.

(d) A person who possesses a hunting license ~~[and is engaged in a lawful hunting activity for any species other than fur-bearing animals]~~ may take and possess a fur-bearing animal if:

(1) neither the fur-bearing animal nor any part of that animal is taken for the purpose of sale, barter, or exchange; and

(2) the number of fur-bearing animals taken does not exceed the daily bag limit or possession limit set by commission regulation.

SECTION 114. Section 76.1031(b), Parks and Wildlife Code, is amended to read as follows:

(b) All licenses issued under the authority of this chapter ~~[Chapter 76 of this code]~~ may not be transferred to another person or vessel except as provided by this subsection. A license issued under the authority of Section 76.101(c) may be transferred to another vessel or to a new owner of the same vessel. The commission, by regulation, may prescribe requirements necessary to clarify license transfer procedures and may prescribe, by regulation, forms to be used and fees to be charged for transfer of licenses in this chapter and for duplicate license plates or duplicate or replacement licenses.

SECTION 115. Section 76.116, Parks and Wildlife Code, is amended to read as follows:

Sec. 76.116. OYSTERS FROM RESTRICTED ~~[POLLUTED]~~ AREAS. (a) There is no open season for taking oysters from areas closed ~~[declared to be polluted]~~ by the Texas ~~[State]~~ Department of Health, ~~and a person who takes oysters from such an area violates Section 76.108(a) of this code.~~

(b) The department may authorize by permit the transplanting of oysters

from restricted areas or other areas designated by the department [~~polluted areas~~] to private oyster leases.

(c) A person removing oysters from a restricted area or other area designated by the department [~~polluted areas~~] without a permit shall replace the oysters in the beds from which they were taken as directed by authorized employees of the department.

SECTION 116. Section 77.020, Parks and Wildlife Code, is amended to read as follows:

Sec. 77.020. PENALTY. (a) A person who violates a provision of this chapter except Section 77.024 or 77.061(a)(1) or who violates a regulation adopted under this chapter [~~of this code~~] commits an offense that is a Class C Parks and Wildlife Code misdemeanor.

(b) If it is shown at the trial of the defendant that the person [~~he~~] has been convicted once within five years before the trial date of a violation of a provision of this chapter except Section 77.024 or 77.061(a)(1) [~~of this code~~], or of a regulation adopted under this chapter, the person [~~he~~] is guilty of a Class B Parks and Wildlife Code misdemeanor.

(c) If it is shown at the trial of the defendant that the person [~~he~~] has been convicted two or more times within five years before the trial date of a violation of a provision of this chapter except Section 77.024 or 77.061(a)(1) [~~of this code~~], or of a regulation adopted under this chapter, the person [~~he~~] is guilty of a Class A Parks and Wildlife Code misdemeanor.

SECTION 117. Section 77.0361, Parks and Wildlife Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) All licenses issued under the authority of this chapter [~~Chapter 77 of this code~~] may not be transferred to another person or vessel except as provided by Subsection (c) [~~this subsection~~] or by Section 77.113. A license issued under the authority of Section 77.043 in the name of a business remains valid for the business location specified on the license if a change of ownership or business name occurs. A license issued under the authority of Section 77.035 may be transferred to another vessel or to the new owner of the same vessel.

(c) The commission, by regulation [~~rule~~], may prescribe requirements necessary for license transfers and may prescribe, by regulation [~~rule~~], forms to be used and fees to be charged for transfers of licenses in this chapter, and [~~and/or~~] for duplicate license plates, or for [~~and/or~~] duplicate or replacement licenses.

SECTION 118. Section 77.037, Parks and Wildlife Code, is amended to read as follows:

Sec. 77.037. TRANSFER OF LICENSE. A commercial gulf shrimp boat license issued under this subchapter may be transferred on the application of the licensee from a boat that has been destroyed or lost to a boat acquired by the licensee as a replacement. The commission, by regulation, may prescribe requirements necessary to clarify license transfer procedures and may prescribe, by regulation, forms to be used and fees to be charged for transfer of licenses authorized by this subsection.

SECTION 119. Section 77.044(b), Parks and Wildlife Code, is amended to read as follows:

(b) A bait-shrimp dealer's license may not be held by a person who also holds a wholesale fish dealer's [~~shrimp house operator's~~] license.

SECTION 120. The heading to Subchapter E, Chapter 81, Parks and Wildlife Code, is amended to read as follows:

SUBCHAPTER E. WILDLIFE MANAGEMENT AREAS  
AND PUBLIC HUNTING LANDS

SECTION 121. Section 81.402, Parks and Wildlife Code, is amended to read as follows:

Sec. 81.402. REGULATION OF HUNTING AND FISHING. (a) The executive director [department] may prohibit hunting and fishing in wildlife [game] management areas or public hunting lands to protect any species of wildlife or fish.

(b) ~~[The department from time to time, as sound biological management permits, and until August 31, 1995, may allow open seasons for hunting and fishing.~~

~~(c)~~ During an open season in wildlife management areas or public hunting lands, the executive director [department] may prescribe the number, kind, sex, and size of game or fish that may be taken.

~~(c)~~ ~~(d)~~ The executive director [department] may prescribe the means, methods, and conditions for the taking of game or fish during an open season in wildlife management areas or public hunting lands.

~~(d)~~ ~~As [e) After August 31, 1995, and as]~~ sound biological management permits, the commission may ~~[only]~~ prescribe an open season for hunting after it has established a classification system for such areas in accordance with Section 13.001(b) ~~[of this code]~~.

SECTION 122. Section 81.403, Parks and Wildlife Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) Except as provided in Subsections [Subsection] (b) and (e) [of this section], permits for hunting of wildlife or for any other use in wildlife [on game] management areas shall be issued by the department to applicants by means of a fair method of distribution subject to limitations on the maximum number of permits to be issued.

~~(e)~~ The department may authorize and accept multiple applications for special hunting permits, programs, packages, or events.

SECTION 123. Subchapter B, Chapter 1, Parks and Wildlife Code, is amended by adding Section 1.013 to read as follows:

Sec. 1.013. FENCES. This code does not prohibit or restrict the owner or occupant of land from constructing or maintaining a fence of any height on the land owned or occupied, and an owner or occupant who constructs such a fence is not liable for the restriction of the movement of wild animals by the fence. The existence of a fence does not affect the status of wild animals as property of the people of this state.

SECTION 124. Section 47.02(c), Penal Code, is amended to read as follows:

(c) It is a defense to prosecution under this section that the actor reasonably believed that the conduct:

(1) was permitted under the Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes);

(2) was permitted under the Charitable Raffle Enabling Act (Article 179f, Revised Statutes);

(3) consisted entirely of participation in the state lottery authorized by the State Lottery Act (Chapter 466, Government Code);

(4) was permitted under the Texas Racing Act (Article 179e, Vernon's Texas Civil Statutes); or

(5) consisted entirely of participation in a drawing for the opportunity to participate in a hunting, fishing, or other recreational event conducted by [privileges authorized under] the Parks and Wildlife Department [Code].

SECTION 125. The heading of Chapter 78, Parks and Wildlife Code, is amended to read as follows:

CHAPTER 78. MUSSELS, ~~[AND]~~ CLAMS, AND CRABS

SECTION 126. Sections 78.001 through 78.007, Parks and Wildlife Code, are designated as Subchapter A, Chapter 78, Parks and Wildlife Code, and a heading for Subchapter A, Chapter 78, Parks and Wildlife Code, is added to read as follows:

SUBCHAPTER A. MUSSELS AND CLAMS

SECTION 127. Chapter 78, Parks and Wildlife Code, is amended by adding Subchapter B to read as follows:

SUBCHAPTER B. CRAB LICENSE MANAGEMENT

Sec. 78.101. CRAB LICENSE MANAGEMENT PROGRAM. To promote efficiency and economic stability in the crabbing industry and to conserve economically important crab resources, the department shall implement a crab license management program in accordance with proclamations adopted by the commission under Chapter 61 and this subchapter.

Sec. 78.102. DEFINITIONS. In this subchapter:

(1) "Crab" means all species in the families Portunidae and Xanthidae.

(2) "Commercial crab fishing" means pursuing, taking, attempting to take, or landing crabs in this state for pay or for the purpose of sale, barter, or exchange.

(3) "License" means a commercial license issued in accordance with a proclamation under this subchapter that authorizes commercial crab fishing or the operation of a commercial crab boat.

Sec. 78.103. CRAB LICENSE MANAGEMENT REVIEW BOARD.

(a) The license holders under this chapter shall elect a crab license management review board with an odd number of members greater than four and fewer than 12.

(b) A member of the review board must be a license holder under this subchapter or a wholesale fish dealer as defined by Section 47.001 with knowledge of the commercial crab fishing industry.

(c) A majority of the members of the review board may not be residents of the same county.

(d) The review board shall advise the commission and department and make recommendations concerning the administrative aspects of the crab licensing program, including the definition of flagrant offenses, and hardship appeal cases concerning eligibility, license transfer, license renewal, license suspension, and license revocation.

(e) The executive director shall adopt procedures for determining the size and operations of the review board and the election and terms of board members. The executive director shall solicit and consider recommendations regarding these procedures from persons who purchased crab trap tags after September 1, 1995, and before August 31, 1996, or from holders of licenses issued under this subchapter.

(f) The review board is not subject to Article 6252-33, Revised Statutes.

(g) A member of the review board serves without compensation or a per diem allowance.

Sec. 78.104. LICENSING. (a) If the commission adopts one or more licenses to be issued under this subchapter, a person may not engage in commercial crab fishing without a license adopted by the commission. If the commission adopts a commercial crab boat license to be issued under this subchapter, a person may not operate a boat for the purpose of commercial crab fishing without having a boat license as prescribed by the commission.

(b) A proclamation under this section requiring a license must contain findings by the commission that support the need for the proclamation. In determining the need for a license requirement, the commission shall consider:

(1) measures to prevent waste or depletion of crabs while achieving, on a continuing basis, the optimum yield for the fishery;

(2) the best scientific information available;

(3) the effect a licensing program would have on the management of crabs throughout the jurisdictional range;

(4) the need to promote, where practicable, efficiency in using crabs;  
and

(5) the need to enhance enforcement.

(c) A proclamation issued under this section may:

(1) establish a license that is issued to a person, to a person and limited to a vessel, or to a person according to the equipment used in commercial crab fishing, including issuing tags for crab traps placed in public waters under Section 66.018;

(2) establish eligibility requirements for a license, including the use of historical participation in the industry or participation in the industry after August 31, 1995, and before November 14, 1996;

(3) establish requirements for license transfer;

(4) prohibit license transfer during certain time periods; and

(5) establish a lottery or an auction for issuing licenses.

Sec. 78.105. LICENSE FEE. The fee for a license is \$500, or an amount set by the commission, whichever amount is more. All fees generated by the issuance of a license under this subchapter are to be sent to the comptroller for deposit to the credit of the game, fish, and water safety account.

Sec. 78.106. LICENSE RENEWAL. A person seeking to renew a license established by this subchapter must have held the license during the preceding license year.

Sec. 78.107. LIMIT ON NUMBER OF LICENSES HELD. (a) A person may not hold or directly or indirectly control more than three licenses issued under this subchapter other than an equipment license.

(b) A license issued to a person other than an individual must designate an individual in whose name the license will be issued.

Sec. 78.108. EXPIRATION OF LICENSE. A license required by this subchapter is valid only during the period for which it is issued without regard to the date on which the license is acquired. Each period is one year beginning on September 1 or another date set by the commission.

Sec. 78.109. LICENSE TRANSFER. (a) The commission by rule may set



a fee for the transfer of a license. The amount of the fee may not exceed the amount of the license fee.

(b) The commission shall send all license transfer fees to the comptroller for deposit to the credit of the game, fish, and water safety account.

(c) The commission by proclamation shall allow a license to be transferred beginning not later than September 1, 2001. The commission shall annually review the decision regarding license transfer.

(d) Notwithstanding Subsection (c), a license may be transferred at any time to an heir or devisee of a deceased license holder, but only if the heir or devisee is a person who in the absence of a will would be entitled to all or a portion of the deceased's property.

Sec. 78.110. LICENSE SUSPENSION AND REVOCATION. (a) The executive director, after notice to a license holder and the opportunity for a hearing, may suspend or revoke a license if the license holder or any other operator of a licensed vessel is shown to have been convicted of one or more flagrant offenses defined by a proclamation of the commission during a period described by the proclamation of the commission.

(b) A license suspension does not affect the license holder's eligibility to renew the license after the suspension expires.

(c) The same flagrant offense may not be counted for more than one suspension under this section.

Sec. 78.111. LICENSE BUYBACK. (a) The department may implement a license buyback program as part of the crab license management program established by this subchapter.

(b) The commission by rule may establish criteria, using reasonable classifications, by which the department selects licenses to be purchased. The commission may delegate to the executive director, for purposes of this section only, the authority to develop the criteria through rulemaking procedures, but the commission by order must finally adopt the rules establishing the criteria. The commission or executive director must consult with the crab license management review board concerning establishment of the criteria.

(c) The commission must retire each license purchased under the license buyback program until the commission finds that management of the crab fishery allows reissue of those licenses through auction or lottery.

(d) The department shall set aside at least 20 percent of the fee from commercial crab licenses and transfer fees to be used only for the purpose of buying back commercial crab licenses from a willing license holder. That money shall be sent to the comptroller for deposit to the credit of the game, fish, and water safety account.

(e) The department may accept grants and donations of money or materials from private or public sources for the purpose of buying back commercial crab licenses from a willing license holder and shall send the accepted money or material to the comptroller for deposit to the credit of the game, fish, and water safety account to be used only for the purpose of buying back commercial crab licenses from a willing license holder.

(f) Money to be used for the purpose of buying back commercial crab licenses is not subject to Section 403.095, Government Code.

Sec. 78.112. PROGRAM ADMINISTRATION; RULES. (a) The



executive director shall establish administrative procedures to carry out the requirements of this subchapter.

(b) The commission shall adopt any rules necessary for the administration of the program established under this subchapter.

Sec. 78.113. DISPOSITION OF FUNDS. Money received for a license issued under this subchapter or fines for violations of this subchapter shall be remitted to the department by the 10th day of the month following the date of collection.

Sec. 78.114. PROCLAMATION; PROCEDURES. Subchapter D, Chapter 61, and Sections 61.054 and 61.055 apply to the adoption of proclamations under this subchapter.

SECTION 128. Section 47.002, Parks and Wildlife Code, is amended by adding Subsection (h) to read as follows:

(h) A person who engages in or assists in commercial crab fishing under Subchapter B, Chapter 78, and who holds a license for that activity is not required to obtain or possess a general commercial fisherman's license or a commercial fishing boat license.

SECTION 129. Section 66.018, Parks and Wildlife Code, is amended by amending Subsections (a), (c), and (d) and adding Subsection (f) to read as follows:

(a) The department may [~~shall~~] issue [~~numbered~~] tags for crab traps placed in public water.

(c) A crab trap tag issued under this section shall be attached to each crab trap placed in public water. The department may [~~shall~~] collect a maximum fee of \$1.50 for each tag issued under this section; provided, however, that upon adoption of a crab management plan and the establishment of a crab advisory committee, the commission may determine the amount of the fee.

(d) No person may place a crab trap in public water unless a crab trap tag is attached to the trap unless a proclamation under Subchapter B, Chapter 78, requires a license that does not require the use of crab trap tags.

(f) If the commission adopts a license under Subchapter B, Chapter 78, the department may not collect a fee for any crab trap tag.

SECTION 130. The following provisions of the Parks and Wildlife Code are repealed: Sections 11.0161(b), 12.004(a), 12.007, 12.012, 12.014, 12.016, 12.022, 12.023, 12.111, 13.0011, 13.0012, and 13.111; Subchapter E, Chapter 23; Sections 41.001, 41.002, 41.007, 43.046, 43.048, 43.0485, 43.0761, 43.0765, 44.0135, 46.107, 47.036, 49.004, 49.0045, 49.0047, 49.005-49.009, 49.013, 61.004, 61.105, 61.203, 62.027, 62.028, 66.112, 66.302, 76.010, 76.011, 76.013, 76.014, 76.018, 76.034, 76.105, 76.108, 76.110, 76.111, 76.112(a), 76.113, 77.001(9), 77.005, 77.012, 77.013, 77.016-77.019, 77.038, 77.041, 77.042, 77.047, 77.063(a), 77.064-77.070; Subchapter E, Chapter 77; Sections 81.002 and 81.201-81.205; Subchapter A, Chapter 82; Subchapter A, Chapter 114; Subchapter A, Chapter 130; Subchapter A, Chapter 131; Subchapter A, Chapter 134; Subchapter A, Chapter 136; Subchapter A, Chapter 143; Subchapter A, Chapter 192; Subchapter A, Chapter 202; Subchapter A, Chapter 216; Subchapters A and B, Chapter 223; Section 223.022; Subchapter A, Chapter 237; Subchapters A and D, Chapter 246; Subchapter A, Chapter 258; Subchapter A, Chapter 272; Subchapter A, Chapter 283; Section 355.003; and

Chapters 101-113, 115-129, 132, 133, 135, 137-142, 144-191, 193-201, 203-215, 217-222, 224-236, 238-245, 247-257, 259-271, 273-282, and 284-354.

SECTION 131. This Act takes effect September 1, 1997.

SECTION 132. (a) Notwithstanding Section 78.103, Parks and Wildlife Code, as added by this Act, a person is eligible to vote in the election of or serve on the initial crab license management review board only if the person purchased crab trap tags after September 1, 1995, and before August 31, 1996, except that wholesale fish dealers with knowledge of the commercial crab fishing industry may also serve on the board. The initial board shall consist of an odd number of members greater than four and fewer than 12. The election of the initial board shall be held before November 1, 1997, or as soon as practicable after that date.

(b) The Parks and Wildlife Department shall issue a written report to the governor and the legislature not later than January 1, 2001, that includes an overview of the administration and status of the crab license management program, including the biological, social, and economic effects of the program.

SECTION 133. (a) Not later than October 1, 1997, the Parks and Wildlife Department shall submit to the legislature a report describing the actions the department has taken, and the actions the department plans to take during the 1998-1999 biennium, to address deficiencies in maintenance, operational support, and promotion of historic structures, sites, and parks under the department's jurisdiction. The report shall respond in detail to the findings and recommendations included in the study of state historic sites conducted for the department and the Texas Historical Commission by KPMG Peat Marwick, L.L.P., and submitted to those agencies in January 1997.

(b) Copies of the department's report shall be delivered to the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the senate and house standing committees having jurisdiction over matters relating to preservation of state historic structures, sites, and parks.

SECTION 134. (a) A change in law made by this Act that relates to an offense or penalty applies only to an offense committed on or after September 1, 1997. For purposes of this section, an offense is committed before September 1, 1997, if any element of the offense occurs before that date.

(b) An offense committed before September 1, 1997, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 135. A rule adopted by the Parks and Wildlife Commission before September 1, 1997, is not invalid because the rule conflicts with a provision of the Parks and Wildlife Code that was in effect at the time the rule was adopted and that is repealed by this Act. A rule adopted before September 1, 1997, that conflicts with a provision in effect at the time the rule was adopted and repealed by this Act may not take effect before September 1, 1997.

SECTION 136. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Representative Kuempel moved to adopt the conference committee report on **HB 2542**.

The motion prevailed.

**SB 381 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Goodman submitted the conference committee report on **SB 381**.

Representative Goodman moved to adopt the conference committee report on **SB 381**.

The motion prevailed. (Howard and Moffatt recorded voting no)

**SB 206 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Eiland submitted the conference committee report on **SB 206**.

Representative Eiland moved to adopt the conference committee report on **SB 206**.

The motion prevailed.

**SB 534 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Maxey submitted the conference committee report on **SB 534**.

Representative Maxey moved to adopt the conference committee report on **SB 534**.

A record vote was requested.

The motion prevailed by (Record 617): 145 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C); Wilson.

Absent, Excused — Giddings; Price.

### HR 1303 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1303**, suspending the limitations on the conferees for **HB 4**.

### SB 987 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Gallego submitted the conference committee report on **SB 987**.

Representative Gallego moved to adopt the conference committee report on **SB 987**.

A record vote was requested.

The motion prevailed by (Record 618): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dunnam; Dutton; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Glaze; Goodman; Goolsby; Gray; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzhauser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Giddings; Price.

Absent — Dukes; Edwards; Greenberg; Moreno; Turner, S.

### HR 1267 - ADOPTED (by Cuellar)

The speaker laid before the house the following privileged resolution:

#### HR 1267

BE IT RESOLVED by the House of the State of Texas, 75th Legislature, Regular Session, 1997, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 318** to consider and take action on the following specific matter:

House Rule 13, Section 9(a)(4), is suspended to permit the committee to add Section 12.1011, Education Code, to read as follows:

Sec. 12.1011. PUBLIC EDUCATION GRANT CHARTERS. (a) In addition to the other charters authorized under this subchapter, in accordance with this subchapter the State Board of Education may grant:

(1) not more than 100 charters for open-enrollment charter schools that adopt an express policy providing for the admission of students eligible for a public education grant under Subchapter G, Chapter 29; and

(2) additional charters for open-enrollment charter schools for which at least 75 percent of the prospective student population, as specified in the proposed charter, will be students who have dropped out of school or are at risk of dropping out of school as defined by Section 29.081.

(b) An open-enrollment charter school granted a charter under this section may serve students who are not eligible for a public education grant under Subchapter G, Chapter 29, but a school granted a charter under Subsection (a)(2) must maintain, as a condition of its charter, the required percentage of students.

Explanation: This change is necessary to permit the committee to permit the State Board of Education to authorize additional open-enrollment charter schools to serve students who are eligible for public education grants, who have dropped out of school, or are at risk of dropping out of school.

**HR 1267** was adopted without objection.

### **COMMITTEE GRANTED PERMISSION TO MEET**

Representative D. Jones requested permission for the conference committee on **SB 1100** to meet while the house is in session.

Permission to meet was granted without objection.

### **COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Conference committee on **SB 1100**, 12:15 p.m. today, 3E.4, Capitol Building.

### **HCR 326 - ADOPTED (by Patterson)**

Representative Patterson moved to suspend all necessary rules to take up and consider at this time **HCR 326**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

### **HCR 326**

WHEREAS, **HJR 31** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

WHEREAS, The resolution contains technical errors that should be corrected; now, therefore, be it

RESOLVED by the 75th Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to correct House Joint Resolution 31 as follows:

(1) In Senate Floor Amendment No. 1 by Senator Patterson, at the end of Section 50(a)(6)(P)(ii), Article XVI, Texas Constitution, as added by the amendment (page 4, line 21), strike "or".

(2) In Senate Floor Amendment No. 1 by Senator Patterson, at the end of Section 50(a)(6)(P)(iii), Article XVI, Texas Constitution, as added by the amendment (page 4, line 23), strike "and".

(3) In Senate Floor Amendment No. 1 by Senator Patterson, in Section 50(a)(6)(Q)(iv), Article XVI, Texas Constitution, as added by the amendment (page 5, line 8), strike "confession or judgment" and substitute "confession of judgment".

(4) In Senate Floor Amendment No. 3 by Senator Nixon, at the end of Section 50(a)(6)(P)(iv), Article XVI, Texas Constitution, as added by the amendment (page 1, line 6), strike the period and substitute "; or".

(5) In Senate Floor Amendment No. 3 by Senator Nixon, at the end of Section 50(a)(6)(P)(v), Article XVI, Texas Constitution, as added by the amendment (page 1, line 9), strike the period and substitute "; and".

(6) In Senate Floor Amendment No. 4 by Senator Ellis (page 1, line 3), strike "Finance Commission" and substitute "Finance Commission of Texas".

(7) In Senate Floor Amendment No. 5 by Senator Patterson, immediately following the semicolon at the end of Section 50(a)(5)(C), Article XVI, Texas Constitution, as amended by the amendment, add "and".

**HCR 326** was adopted without objection.

#### **HR 1304 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1304**, suspending the limitations on the conferees for **SB 1**.

#### **HR 1307 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1307**, suspending the limitations on the conferees for **SB 1311**.

#### **HR 1306 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1306**, suspending the limitations on the conferees for **SB 360**.

#### **HR 1305 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1305**, suspending the limitations on the conferees for **HJR 4**.

#### **HR 1300 - ADOPTED (by Bosse)**

The speaker laid before the house the following privileged resolution:

#### **HR 1300**

BE IT RESOLVED by the House of Representatives of the State of Texas, 75th Legislature, Regular Session, 1997, That House Rule 13, Section 9(a), be

suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 370** to consider and take action on the following specific matters:

(1) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter that is not included in either the house or senate version of the bill. The added text reads as follows:

SECTION 1.\_\_\_\_. (a) Subchapter C, Chapter 201, Transportation Code, is amended by adding Section 201.112 to read as follows:

Sec. 201.112. CONTRACT CLAIMS. (a) The commission may by rule establish procedures for the informal resolution of a claim arising out of a contract described by:

- (1) Section 22.018;
- (2) Chapter 223; or
- (3) Chapter 2254, Government Code.

(b) If a person with a claim is dissatisfied with the department's resolution of the claim under the procedures authorized under Subsection (a), the person may request a formal administrative hearing to resolve the claim under Chapter 2001, Government Code.

(c) An administrative law judge's proposal for decision rendered under Chapter 2001, Government Code, shall be submitted to the director for adoption. Notwithstanding any law to the contrary, the director may change a finding of fact or conclusion of law made by the administrative law judge, or may vacate or modify an order issued by the administrative law judge. The director shall provide a written statement containing the reason and legal basis for a change made under this subsection.

(d) The director's final order is subject to judicial review under Chapter 2001, Government Code, under the substantial evidence rule.

(e) This section does not waive state immunity from liability.

(b) Notwithstanding any other law, the procedures prescribed by Section 201.112, Transportation Code, as added by Subsection (a) of this section, shall constitute the exclusive remedy at law for the resolution of a claim governed by that section.

(c) Section 201.112, Transportation Code, as added by Subsection (a) of this section, applies to any claim governed by that section:

- (1) filed with the Texas Department of Transportation on or after the effective date of this Act; or
- (2) pending before the Texas Department of Transportation on the effective date of this Act.

(d) For purposes of Subsection (c)(2) of this section, a claim is pending before the Texas Department of Transportation if the claim has been filed, but the claimant has not sought judicial review under Chapter 2001, Government Code.

EXPLANATION: This addition is necessary to codify into law authority for:

(1) the Texas Transportation Commission to establish procedures for the informal resolution of contract claims against the Texas Department of Transportation;

(2) an aggrieved claimant to obtain a hearing under the Administrative Procedure Act; and



(3) the judicial appeal of a contract claim by an aggrieved claimant.

(2) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter that is not included in either the house or senate version of the bill. The added text reads as follows:

SECTION 1.\_\_\_\_. (a) Section 472.011, Transportation Code, is amended to read as follows:

Sec. 472.011. Definition. In this subchapter, "personal property" includes personal property of any kind or character, including:

(1) a vehicle, as defined by Section 502.001, that is damaged or disabled;

(2) spilled cargo;[;]

(3) a hazardous material as defined by 49 U.S.C. App. Section 1802;[;] and

(4) a hazardous substance as defined by Section 26.263, Water Code.

(b) Section 472.014, Transportation Code, is amended to read as follows:

Sec. 472.014. Department Not Liable for Damages. Notwithstanding any other provision of law, the [The] department and its officers and employees are not liable for:

(1) any damage to personal property resulting from its removal or disposal by the department unless the removal or disposal is carried out recklessly or in a grossly negligent manner; or

(2) any damage resulting from the failure to exercise authority granted under this subchapter.

EXPLANATION: This addition is necessary to clarify the Texas Department of Transportation's liability concerning its authority to remove damaged or disabled vehicles from roadways and roadway rights-of-way in this state in circumstances where those vehicles impede the free flow of vehicular traffic or endanger motorists using those roadways.

(3) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter that is not included in either the house or senate version of the bill. The added text reads as follows:

SECTION 1.\_\_\_\_. Subchapter H, Chapter 545, Transportation Code, is amended by adding Section 545.3535 to read as follows:

Sec. 545.3535. AUTHORITY OF TEXAS TRANSPORTATION COMMISSION TO ALTER SPEED LIMITS ON CERTAIN ROADS. (a) The commissioners court of a county may request the Texas Transportation Commission to determine and declare a reasonable and safe prima facie speed limit that is lower than a speed limit established by Section 545.352 on any part of a farm-to-market or a ranch-to-market road of the highway system that is located in that county and has a pavement width of 20 feet or less.

(b) If the commission receives a request under Subsection (a), the commission shall publish in a newspaper of general circulation in the affected county notice of:

(1) the request of the commissioners court; and

(2) the time and place of a hearing in the county on the request.

(c) The commission may elect to determine and declare a lower speed limit on any part of the road without an engineering and traffic investigation, but the commission must use sound and generally accepted traffic engineering practices in determining and declaring the lower speed limit.

(d) The commission by rule shall establish standards for determining lower speed limits within a set range.

EXPLANATION: This addition is necessary for the safe operation of vehicles on narrow farm-to-market and ranch-to-market roads.

(4) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter that is not included in either the house or senate version of the bill. The added text reads as follows:

SECTION 4.\_\_\_\_. (a) Section 642.001, Transportation Code, is amended by adding Subdivision (6) to read as follows:

(6) "Tow truck" has the meaning assigned that term by Section 643.001.

(b) Section 642.002, Transportation Code, is amended to read as follows:

Sec. 642.002. IDENTIFYING MARKINGS ON CERTAIN VEHICLES REQUIRED; OFFENSE; PENALTY. (a) A person commits an offense if:

- (1) the person operates on a public street, road, or highway:
  - (A) a commercial motor vehicle that has three or more axles;
  - (B) a truck-tractor; [~~or~~]
  - (C) a road-tractor; or
  - (D) a tow truck; and

(2) the vehicle does not have on each side of the power unit identifying markings that:

(A) show the name and address, including city and state, of the owner or operator of the vehicle; [~~and~~]

(B) have clearly legible letters and numbers of a height of at least two inches; and

(C) show the motor carrier registration number in clearly legible letters and numbers, if the vehicle is required to be registered under this chapter.

(b) The owner of a vehicle commits an offense if the owner or operator permits another to operate a vehicle in violation of Subsection (a).

(c) The Texas Department of Transportation by rule may prescribe additional requirements regarding the form of the markings required by Subsection (a)(2) that are not inconsistent with that subsection.

(d) An offense under this section is a Class C misdemeanor.

EXPLANATION: This addition is necessary to protect consumers and other members of the public by requiring that tow trucks be clearly marked so as to identify the owner or operator of the tow truck.

(5) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter that is not included in either the house or senate version of the bill. The added text reads as follows:

SECTION 3.\_\_\_\_. Section 3.05, Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3.05. INVESTIGATION; ENFORCEMENT. (a) Whenever the Board [~~Commission~~] has reason to believe, through receipt of a complaint or otherwise, that a violation of this Act or a Board [~~Commission~~] rule, order, or decision has occurred or is likely to occur, the Board [~~Commission~~] shall

conduct an investigation unless it determines that a complaint is frivolous or for the purpose of harassment. If the Board's [~~Commission's~~] investigation establishes that a violation of this Act or a Board [~~Commission~~] rule, order, or decision has occurred or is likely to occur, the Board [~~Commission~~] shall institute proceedings as it deems appropriate to enforce this Act or its rules, orders, and decisions.

(b) Notwithstanding Subsection (a) of this section, another provision of this Act, or Board rule, the Board may not file a complaint alleging a violation of this Act or a Board rule relating to advertising until the Board has notified the licensee involved of the alleged violation and given the licensee an opportunity to cure the violation without further proceedings or liability.

EXPLANATION: This addition is necessary to amend the Texas Motor Vehicle Commission Code to prohibit the Motor Vehicle Board of the Texas Department of Transportation from initiating a proceeding against the holder of a license for a violation of that code without first giving the license holder the opportunity to cure the alleged violation.

(6) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter that is not included in either the house or senate version of the bill. The added text reads as follows:

SECTION 4.\_\_\_\_. (a) Chapter 1, Title 116, Revised Statutes, is amended by adding Article 6675c-2 to read as follows:

Art. 6675c-2. FOREIGN COMMERCIAL MOTOR TRANSPORTATION

Sec. 1. DEFINITIONS. In this article:

(1) "Border" means the border between this state and the United Mexican States.

(2) "Commercial motor vehicle" includes a foreign commercial motor vehicle.

(3) "Border commercial zone" means a commercial zone established under 49 C.F.R. Part 372, Subpart B, any portion of which is contiguous to the border in this state.

(4) "Foreign commercial motor vehicle" means a commercial motor vehicle, as defined by 49 C.F.R. Section 390.5, that is owned or controlled by a person or entity that is domiciled in or a citizen of a country other than the United States.

(5) "Motor carrier" includes a foreign motor carrier and a foreign motor private carrier, as defined in 49 U.S.C. Sections 13102(6) and (7).

Sec. 2. RULES. In addition to rules required by this article, the Texas Department of Transportation, the Department of Public Safety, and the Texas Department of Insurance may adopt other rules to carry out this article.

Sec. 3. REFERENCE TO FEDERAL STATUTE OR REGULATION. A reference in this article to a federal statute or regulation includes any subsequent amendment or redesignation of the statute or regulation.

Sec. 4. BORDER COMMERCIAL ZONE EXCLUSIVE; BOUNDARIES.

(a) A law or agreement of less than statewide application that is adopted by an agency or political subdivision of this state and that regulates motor carriers or commercial motor vehicles or the operation of those carriers or vehicles in the transportation of cargo across the border or within an area adjacent to the border by foreign commercial motor vehicles has no effect unless the law or

agreement applies uniformly to an entire border commercial zone and only in a border commercial zone. This section supersedes that portion of any paired city, paired state, or similar understanding governing foreign commercial motor vehicles or motor carriers entered into under Section 502.054, Transportation Code, or any other law.

(b) The boundaries of a border commercial zone may be modified or established only as provided by federal law.

Sec. 5. REGISTRATION EXEMPTION IN BORDER COMMERCIAL ZONE. (a) A foreign commercial motor vehicle is exempt from Chapter 502, Transportation Code, and any other law of this state requiring the vehicle to be registered in this state, including a law providing for a temporary registration permit, if:

(1) the vehicle is engaged solely in transportation of cargo across the border into or from a border commercial zone;

(2) for each load of cargo transported the vehicle remains in this state:

(A) not more than 24 hours; or

(B) not more than 48 hours, if:

(i) the vehicle is unable to leave this state within 24 hours because of circumstances beyond the control of the motor carrier operating the vehicle; and

(ii) all financial responsibility requirements applying to the vehicle are satisfied;

(3) the vehicle is registered and licensed as required by the law of another state or country as evidenced by a valid metal license plate attached to the front or rear of the exterior of the vehicle; and

(4) the country in which the person that owns or controls the vehicle is domiciled or is a citizen provides a reciprocal exemption for commercial motor vehicles owned or controlled by residents of this state.

(b) A foreign commercial motor vehicle operating under the exemption provided by this section and the vehicle's driver may be considered unregistered if the vehicle is operated in this state outside a border commercial zone or in violation of United States law.

Sec. 6. FINANCIAL RESPONSIBILITY. The Texas Department of Transportation shall adopt rules that conform with 49 C.F.R. Part 387 requiring motor carriers operating foreign commercial motor vehicles in this state to maintain financial responsibility. This article prevails over any other requirement of state law relating to financial responsibility for operation of those vehicles in this state.

Sec. 7. DOMESTIC TRANSPORTATION. A foreign motor carrier or foreign motor private carrier may not transport persons or cargo in intrastate commerce in this state unless the carrier is authorized to conduct operations in interstate and foreign commerce domestically between points in the United States under federal law or international agreement.

(b) Article 6675d, Revised Statutes, is amended by adding Section 16 to read as follows:

Sec. 16. APPLICATION TO FOREIGN COMMERCIAL MOTOR VEHICLES. Except as otherwise provided by law, this article also applies to all foreign commercial motor vehicles, as defined by Section 1, Article 6675c-2, Revised Statutes.

EXPLANATION: This addition is necessary to:

(1) provide for the operation of certain foreign commercial motor vehicles that are:

(A) not registered or temporarily registered in this state in commercial zones established under federal law along the border between the United States and the United Mexican States;

(B) operated in this state only temporarily; and

(C) registered in a country that grants reciprocity to vehicles registered in this state; and

(D) in compliance with proposed Article 6675c-2 and rules adopted under the statute by the Texas Department of Transportation, the Department of Public Safety, and the Texas Department of Insurance; and

(2) authorize the state agencies listed above to adopt rules to carry out proposed Article 6675c-2.

(7) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text on a matter that is not included in either the house or senate version of the bill. The added text reads as follows:

#### ARTICLE 8. SCRAP TIRE RECYCLING DUTIES

SECTION 8.01. SCRAP TIRE RECYCLING PROGRAM. (a) The Texas Department of Transportation by rule shall establish a program under which the department may pay for the use of whole scrap tires or scrap tire pieces for:

(1) a civil engineering application;

(2) an energy recovery application;

(3) the manufacture of a product with economic value that is not an intermediate product such as tire shreds or crumb rubber; or

(4) any other recycling activity as authorized by a department rule.

(b) Under the program, the following persons are eligible for payments:

(1) a scrap tire processor whose processed scrap tires have been put to a use described by Subsection (a);

(2) a scrap tire collector who transported tires out of state that have been put to a use described by Subsection (a); or

(3) an end user of scrap tires who has put scrap tires to a use described by Subsection (a).

(c) The department by rule shall require verification that the scrap tires or tire pieces for which a person has applied for a payment under this section have been put to a use described by Subsection (a).

SECTION 8.02. PAYMENTS FOR END USE OF TIRES AND TIRE PIECES. (a) For scrap tires collected from a generator after September 1, 1997, and for scrap tire pieces derived from such tires, the Texas Department of Transportation may pay any qualified person an amount determined by the department of not more than \$90 for each ton of whole scrap tires or scrap tire pieces put to a use described by Section 8.01(a). For a county or region the department identifies as an area that does not receive adequate collection service for scrap tires or scrap tire pieces to the degree that tires or tire pieces in the area pose a threat to public health, public safety, or the environment, the department may make payments that exceed the maximum amount otherwise provided by this section as the department determines is necessary to alleviate a threat posed by the tires or tire pieces.

(b) For whole scrap tires collected by a scrap tire processor, storage facility, transporter, or recycler on or before September 1, 1997, and for shredded tire pieces or other tire pieces derived from such tires, the Texas Department of Transportation by rule shall establish a method and amount for payments for:

(1) the cleanup of the whole scrap tires or scrap tire pieces from:

(A) a site listed on the Texas Natural Resource Conservation Commission's priority enforcement list on or before September 1, 1997;

(B) a site in a county or region the department identifies as an area that does not receive adequate collection service for scrap tires or scrap tire pieces to the degree that tires or tire pieces in the area pose a threat to public health, public safety, or the environment; or

(C) an abandoned scrap tire shred storage site; and

(2) each ton of the whole scrap tires or scrap tire pieces put to a use described by Section 8.01(a).

(c) The Texas Department of Transportation may not make a payment to a person for:

(1) less than 50 tons of whole scrap tires or scrap tire pieces put to a use described by Section 8.01(a); or

(2) an end use of processed tire pieces if the department paid a person under this article to produce those tire pieces.

**SECTION 8.03. RULES.** (a) The Texas Department of Transportation shall adopt rules to:

(1) regulate the storage, transportation, processing, disposal, and recycling of whole scrap tires or scrap tire pieces;

(2) govern payments for recycling or other end uses of whole scrap tires or scrap tire pieces; and

(3) collect fees applicable to the scrap tire recycling program under this article, including rules necessary for the administration, collection, reporting, and payment of each fee due and payable or collected under the program.

(b) The department by rule shall prohibit a scrap tire transporter or mobile tire shredder from charging a fee to a wholesale or retail tire dealer for:

(1) collecting tires for delivery to a scrap tire facility, scrap tire energy recovery facility, or scrap tire recycling facility; or

(2) collecting and shredding used or scrap tires a tire dealer accepts from purchasers of tires for temporary storage.

**SECTION 8.04. FEES AND USE OF FEE REVENUE.** (a) The Texas Department of Transportation shall establish and collect a recycling fee on the sale of a new tire not for resale in an amount as follows:

(1) \$1.50 for a tire for a passenger vehicle or a motorcycle; and

(2) \$3.50 for a tire for a truck.

(b) The Texas Department of Transportation shall deposit fees collected under this section into a special account of the general revenue fund to be known as the scrap tire recycling account. The Texas Department of Transportation shall administer the account to make payments under this article and to finance contracts or other expenses under this article.

(c) The Texas Department of Transportation may use money from the scrap tire recycling account to pay the department's reasonable and necessary

administrative and enforcement costs related to the scrap tire recycling program, or related to a contracting agency's reasonable and necessary administrative and enforcement costs related to the program, in an amount not to exceed \$1.8 million.

(d) If the Texas Department of Transportation contracts with the comptroller of public accounts to administer or collect fees payable under the scrap tire recycling program or to administer the scrap tire recycling account, the Texas Department of Transportation may pay the comptroller an amount not to exceed two percent of the amount of money that accrues in the scrap tire recycling account to pay for the comptroller's reasonable and necessary administrative and enforcement expenses.

**SECTION 8.05. INTERAGENCY CONTRACTS.** The Texas Department of Transportation shall contract with other state agencies to operate the scrap tire recycling program under this article to the extent that contracting with other agencies may allow the program to be operated more efficiently. The Texas Department of Transportation may delegate to a contracting agency any duty or power this article imposes or provides the department.

**SECTION 8.06. COMMENCEMENT OF RECYCLING PROGRAM.** The Texas Department of Transportation shall adopt rules and contract with other agencies as necessary to begin operation of the program established by this article not later than September 1, 1997.

**EXPLANATION:** This addition is necessary to grant the Texas Department of Transportation the authority necessary for the department to adopt and supervise a payment program designed to encourage the recycling of scrap tires and to clean sites polluted by scrap tires.

### **Amendment No. 1**

Representative Chisum offered the following amendment to **HR 1300**:

Amend **HR 1300** by striking item (7) of the resolution. (page 12, line 10 through page 17, line 6)

Amendment No. 1 was adopted without objection.

**HR 1300**, as amended, was adopted without objection.

(Eiland in the chair)

### **HCR 328 - ADOPTED** (by West)

Representative West moved to suspend all necessary rules to take up and consider at this time **HCR 328**.

The motion prevailed without objection.

The chair laid before the house the following resolution:

### **HCR 328**

WHEREAS, **HB 1468** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

WHEREAS, The bill contains a technical error that should be corrected; now, therefore, be it



RESOLVED by the 75th Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to correct **HB 1468** in Section 29.186(a), Education Code, as added by SECTION 1 of the bill, between "career-targeted" and "program" by inserting "transition".

**HCR 328** was adopted without objection.

(Speaker in the chair)

### LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business:

Serna on motion of Thompson.

### HB 3350 - RECOMMITTED

Representative Place moved to recommit **HB 3350** to the conference committee on **HB 3350**.

The motion on prevailed without objection.

### HR 1305 - ADOPTED (by Sadler)

The speaker laid before the house the following privileged resolution:

### HR 1305

BE IT RESOLVED by the House of Representatives of the State of Texas, 75th Legislature, Regular Session, 1997, That House Rule 13, Sections 9(a)(1), (2), (3), and (4) and (c)(1), (2), (3), and (5), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HJR 4** to consider and take action on the following specific matter:

House Rule 13, Sections 9(a)(1), (2), (3), and (4) and (c)(1), (2), (3), and (5), are suspended to permit the committee to add, change, and delete text and matters and to add a complete substitute to **HJR 4** to read as follows:

SECTION 1. Sections 1-b(c) and (d), Article VIII, Texas Constitution, are amended to read as follows:

(c) Fifteen Thousand Dollars (\$15,000) [~~Five Thousand Dollars (\$5,000)~~] of the market value of the residence homestead of a married or unmarried adult, including one living alone, is exempt from ad valorem taxation for general elementary and secondary public school purposes. The legislature by general law may provide that all or part of the exemption does not apply to a district or political subdivision that imposes ad valorem taxes for public education purposes but is not the principal school district providing general elementary and secondary public education throughout its territory. In addition to this exemption, the legislature by general law may exempt an amount not to exceed Ten Thousand Dollars (\$10,000) of the market value of the residence homestead of a person who is disabled as defined in Subsection (b) of this section and of a person sixty-five (65) years of age or older from ad valorem taxation for general elementary and secondary public school purposes. The legislature by general law may base the amount of and condition eligibility for

the additional exemption authorized by this subsection for disabled persons and for persons sixty-five (65) years of age or older on economic need. An eligible disabled person who is sixty-five (65) years of age or older may not receive both exemptions from a school district but may choose either. An eligible person is entitled to receive both the exemption required by this subsection for all residence homesteads and any exemption adopted pursuant to Subsection (b) of this section, but the legislature shall provide by general law whether an eligible disabled or elderly person may receive both the additional exemption for the elderly and disabled authorized by this subsection and any exemption for the elderly or disabled adopted pursuant to Subsection (b) of this section. Where ad valorem tax has previously been pledged for the payment of debt, the taxing officers of a school district may continue to levy and collect the tax against the value of homesteads exempted under this subsection until the debt is discharged if the cessation of the levy would impair the obligation of the contract by which the debt was created. The legislature shall provide for formulas to protect school districts against all or part of the revenue loss incurred by the implementation of Article VIII, Sections 1-b(c), 1-b(d), and 1-d-1, of this constitution. The legislature by general law may define residence homestead for purposes of this section.

(d) Except as otherwise provided by this subsection, if a person receives the residence homestead exemption prescribed by Subsection (c) of this section for homesteads of persons sixty-five (65) years of age or older, the total amount of ad valorem taxes imposed on that homestead for general elementary and secondary public school purposes may not be increased while it remains the residence homestead of that person or that person's spouse who receives the exemption. If a person sixty-five (65) years of age or older dies in a year in which the person received the exemption, the total amount of ad valorem taxes imposed on the homestead for general elementary and secondary public school purposes may not be increased while it remains the residence homestead of that person's surviving spouse if the spouse is fifty-five (55) years of age or older at the time of the person's death, subject to any exceptions provided by general law. The legislature, by general law, may provide for the transfer of all or a proportionate amount of a limitation provided by this subsection for a person who qualifies for the limitation and establishes a different residence homestead. However, taxes otherwise limited by this subsection may be increased to the extent the value of the homestead is increased by improvements other than repairs or improvements made to comply with governmental requirements and except as may be consistent with the transfer of a limitation under this subsection. For a residence homestead subject to the limitation provided by this subsection in the 1996 tax year or an earlier tax year, the legislature shall provide for a reduction in the amount of the limitation for the 1997 tax year and subsequent tax years in an amount equal to \$10,000 multiplied by the 1997 tax rate for general elementary and secondary public school purposes applicable to the residence homestead.

SECTION 2. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by HJR 4, 75th Legislature, Regular Session, 1997, and expires January 2, 1998.

(b) The amendment to Section 1-b(c), Article VIII, of this constitution takes effect for the tax year beginning January 1, 1997.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held August 9, 1997. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment providing school property tax relief by increasing the residence homestead exemption by \$10,000 and providing for the transfer of the tax limitation to another qualified homestead for persons over 65 and a reduction in taxes on homesteads subject to the limitation."

Explanation: This change is necessary to provide for property tax relief to owners of residence homestead property.

**HR 1305** was adopted without objection.

**HR 1303 - ADOPTED**  
**(by Sadler)**

The speaker laid before the house the following privileged resolution:

**HR 1303,**

BE IT RESOLVED by the House of Representatives of the State of Texas, 75th Legislature, Regular Session, 1997, That House Rule 13, Sections 9(a)(1), (2), (3), and (4), Section 9(b)(5), and Sections 9(c)(1), (2), (3), and (5), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HB 4** to consider and take action on the following specific matter:

House Rule 13, Sections 9(a)(1), (2), (3), and (4), Section 9(b)(5), and Sections 9(c)(1), (2), (3), and (5), are suspended to permit the committee to add, change, and delete text and matters and to add a complete substitute to **HB 4** to read as follows:

ARTICLE 1. SCHOOL FINANCE

SECTION 1.01. Subchapter A, Chapter 41, Education Code, is amended by adding Section 41.0011 to read as follows:

Sec. 41.0011. COMPUTATION OF WEALTH PER STUDENT FOR 1997-1998 SCHOOL YEAR. (a) Notwithstanding any other provision of this chapter, in computing a school district's wealth per student for the 1997-1998 school year, a school district's taxable value of property under Subchapter M, Chapter 403, Government Code, is determined as if the increase in the homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, and the additional limitation on tax increases under Section 1-b(d) of that article, as proposed by H.J.R. No. 4, 75th Legislature, Regular Session, 1997, had been in effect for the 1996 tax year.

(b) This section expires September 1, 1998.

SECTION 1.02. Section 41.093, Education Code, is amended to read as follows:

Sec. 41.093. COST. The cost of each credit is an amount equal to the greater of:

(1) the amount of the district's maintenance and operations [total] tax revenue per student in weighted average daily attendance for the school year for which the contract is executed; or

(2) the amount of the statewide district average of maintenance and operations ~~[total]~~ tax revenue per student in weighted average daily attendance for the school year preceding the school year for which the contract is executed.

SECTION 1.03. Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.2511 to read as follows:

Sec. 42.2511. COMPUTATION OF STATE AID FOR 1997-1998 SCHOOL YEAR; ADDITIONAL STATE AID. (a) Notwithstanding any other provision of this chapter, in computing state aid for the 1997-1998 school year, a school district's taxable value of property under Subchapter M, Chapter 403, Government Code, is determined as if the increase in the homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, and the additional limitation on tax increases under Section 1-b(d) of that article, as proposed by H.J.R. No. 4, 75th Legislature, Regular Session, 1997, had been in effect for the 1996 tax year.

(b) For the 1997-1998 and 1998-1999 school years, a school district is entitled to additional state aid to the extent that state aid under this chapter based on the determination of the school district's taxable value of property as provided by Subsection (a) does not fully compensate the district for ad valorem tax revenue that would have been lost due to the increase in the homestead exemption and the additional limitation on tax increases if the increased exemption and additional limitation had been in effect for the 1996 tax year. The commissioner, using information provided by the comptroller, shall compute the amount of additional state aid to which a district is entitled under this subsection. A determination by the commissioner under this subsection is final and may not be appealed.

(c) This section expires September 1, 1999.

SECTION 1.04. Subtitle I, Title 2, Education Code, is amended by adding Chapter 46 to read as follows:

#### CHAPTER 46. INSTRUCTIONAL FACILITIES ALLOTMENT

Sec. 46.001. DEFINITION. In this chapter, "instructional facility" means real property, an improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching the curriculum required under Section 28.002.

Sec. 46.002. RULES. (a) The commissioner may adopt rules for the administration of this chapter.

(b) The commissioner's rules may limit the amount of an allotment under this chapter that is to be used to construct, acquire, renovate, or improve an instructional facility that may also be used for noninstructional or extracurricular activities.

Sec. 46.003. SCHOOL FACILITIES ALLOTMENT. (a) For each year, except as provided by Sections 46.005 and 46.006, a school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort, up to the maximum rate under Subsection (b), to pay the principal of and interest on eligible bonds issued to construct, acquire, renovate, or improve an instructional facility. The amount of state support is determined by the formula:

$$\text{FYA} = (\text{FYL} \times \text{ADA} \times \text{BTR} \times 100) - (\text{BTR} \times (\text{DPV}/100))$$

where:

"FYA" is the guaranteed facilities yield amount of state funds allocated to the district for the year;

"FYL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is \$28 or a greater amount for any year provided by appropriation;

"ADA" is the number of students in average daily attendance, as determined under Section 42.005, in the district;

"BTR" is the district's bond tax rate for the current year, which is determined by dividing the amount of taxes budgeted to be collected by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code; and

"DPV" is the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code.

(b) The bond tax rate under Subsection (a) may not exceed the rate that would be necessary for the current year, using state funds under Subsection (a), to make payments of principal and interest on the bonds for which the tax is pledged.

(c) To enable the district to collect local funds sufficient to pay the district's share of the debt service, a district may levy a bond tax at a rate higher than the maximum rate for which it may receive state assistance.

(d) Bonds are eligible to be paid with state and local funds under this section if:

(1) taxes to pay the principal of and interest on the bonds were first levied in the 1997-1998 school year or a later school year; and

(2) the bonds do not have a weighted average maturity of less than eight years.

(e) A district may use state funds received under this section only to pay the principal of and interest on the bonds for which the district received the funds.

(f) The board of trustees and voters of a school district shall determine district needs concerning construction, acquisition, renovation, or improvement of instructional facilities.

(g) To receive state assistance under this chapter, a school district must apply to the commissioner in accordance with rules adopted by the commissioner before issuing bonds that will be paid with state assistance. Until the bonds are fully paid or the instructional facility is sold:

(1) a school district is entitled to continue receiving state assistance without reapplying to the commissioner; and

(2) the guaranteed level of state and local funds per student per cent of tax effort applicable to the bonds may not be reduced below the level provided for the year in which the bonds were issued.

Sec. 46.004. LEASE-PURCHASE AGREEMENTS. (a) A district may receive state assistance in connection with a lease-purchase agreement concerning an instructional facility. For purposes of this chapter:

(1) taxes levied for purposes of maintenance and operations that are necessary to pay a district's share of the payments under a lease-purchase agreement for which the district receives state assistance under this chapter are considered to be bond taxes; and

(2) payments under a lease-purchase agreement are considered to be payments of principal of and interest on bonds.

(b) Section 46.003(b) applies to taxes levied to pay a district's share of the payments under a lease-purchase agreement for which the district receives state assistance under this chapter.

(c) A lease-purchase agreement must be for a term of at least eight years to be eligible to be paid with state and local funds under this chapter.

Sec. 46.005. LIMITATION ON GUARANTEED AMOUNT. The guaranteed amount of state and local funds for a new project that a district may be awarded in any state fiscal biennium under Section 46.003 for a school district may not exceed the lesser of:

(1) the amount the actual debt service payments the district makes in the biennium in which the bonds are issued; or

(2) the greater of:

(A) \$100,000; or

(B) the product of the number of students in average daily attendance in the district multiplied by \$250.

Sec. 46.006. SHORTAGE OR EXCESS OF FUNDS APPROPRIATED FOR NEW PROJECTS. (a) If the total amount appropriated for a year for new projects is less than the amount of money to which school districts applying for state assistance are entitled for that year, the commissioner shall rank each school district applying by wealth per student. For purposes of this section, a district's wealth per student is reduced by 10 percent for each state fiscal biennium in which the district did not receive assistance under this chapter. The commissioner shall adjust the rankings after making the reductions in wealth per student required by this subsection.

(b) Beginning with the district with the lowest adjusted wealth per student that has applied for state assistance for the year, the commissioner shall award state assistance to districts that have applied for state assistance in ascending order of adjusted wealth per student. The commissioner shall award the full amount of state assistance to which a district is entitled under this chapter, except that the commissioner may award less than the full amount to the last district for which any funds are available.

(c) Any amount appropriated for the first year of a fiscal biennium that is not awarded to a school district may be used to provide assistance in the following fiscal year.

(d) In this section, "wealth per student" means a school district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, divided by the district's average daily attendance as determined under Section 42.005.

Sec. 46.007. REFUNDING BONDS. A school district may use state funds received under this chapter to pay the principal of and interest on refunding bonds that:

(1) are issued to refund bonds eligible under Section 46.003;

(2) do not have a final maturity date later than the final maturity date of the bonds being refunded;

(3) may not be called for redemption earlier than the earliest call date of the bonds being refunded; and

(4) result in a present value savings, which is determined by computing the net present value of the difference between each scheduled payment on the original bonds and each scheduled payment on the refunding bonds. The present value savings shall be computed at the true interest cost of the refunding bonds.

Sec. 46.008. STANDARDS. The commissioner shall establish standards for adequacy of school facilities. The standards must include requirements related to space, educational adequacy, and construction quality. All new facilities constructed after September 1, 1998, must meet the standards to be eligible to be financed with state or local tax funds.

Sec. 46.009. PAYMENT OF SCHOOL FACILITIES ALLOTMENTS. (a) For each school year, the commissioner shall determine the amount of money to which each school district is entitled under this chapter.

(b) If the amount appropriated for purposes of this chapter for a year is less than the total amount determined under Subsection (a) for that year, the commissioner shall:

(1) transfer from the Foundation School Program to the instructional facilities program the amount by which the total amount determined under Subsection (a) exceeds the amount appropriated; and

(2) reduce each district's foundation school fund allocations in the manner provided by Section 42.253.

(c) Warrants for payments under this chapter shall be approved and transmitted to school district treasurers or depositories in the same manner as warrants for payments under Chapter 42.

(d) As soon as practicable after September 1 of each year, the commissioner shall distribute to each school district the amount of state assistance under this chapter to which the commissioner has determined the district is entitled for the school year. The district shall deposit the money in the interest and sinking fund for the bonds for which the assistance is received and shall adopt a tax rate for purposes of debt service that takes into account the balance of the interest and sinking fund.

(e) Section 42.258 applies to payments under this chapter.

(f) If a school district would have received a greater amount under this chapter for the applicable school year using the adjusted value determined under Section 42.257, the commissioner shall add the difference between the adjusted value and the amount the district received under this chapter to subsequent distributions to the district under this chapter.

Sec. 46.010. PROJECTS BY MORE THAN ONE DISTRICT. If two or more districts apply for state assistance in connection with a joint project at a single location, each district is entitled to a guaranteed facilities yield amount of state and local funds that is 20 percent higher than the amount to which the district would otherwise be entitled under Section 46.005.

Sec. 46.011. SALE OF INSTRUCTIONAL FACILITY FINANCED WITH INSTRUCTIONAL FACILITIES ALLOTMENT. (a) If an instructional facility financed by bonds paid with state and local funds under this chapter is sold before the bonds are fully paid, the school district shall send to the comptroller an amount equal to the district's net proceeds from the sale multiplied by a percentage determined by dividing the amount of state funds under this subchapter used to pay the principal of and interest on the bonds



by the total amount of principal and interest paid on the bonds with funds other than the proceeds of the sale.

(b) In this section, "net proceeds" means the difference between the total amount received from the sale less:

(1) the amount necessary to fully pay the outstanding principal of and interest on the bonds; and

(2) the school district's costs of the sale, as approved by the commissioner.

SECTION 1.05. Section 21.401, Education Code, is amended by adding Subsections (a-3) and (a-4) and amending Subsection (b-1) to read as follows:

(a-3) For the 1997-1998 school year, an educator employed under a 10-month contract must provide a minimum of 186 days of service. This subsection expires September 1, 1998.

(a-4) For the 1998-1999 school year, an educator employed under a 10-month contract must provide a minimum of 187 days of service. This subsection expires September 1, 1999.

(b-1) Subsection (b) applies beginning with the 1999-2000 [1997-1998] school year. This subsection expires January 1, 2000 [1998].

SECTION 1.06. Section 21.402, Education Code, is amended by adding Subsections (a-1) and (a-2) to read as follows:

(a-1) Notwithstanding Subsection (a), for the 1997-1998 and 1998-1999 school years, "FSP" for purposes of Subsection (a):

(1) includes amounts appropriated in H.B. No. 4, Acts of the 75th Legislature, Regular Session, 1997; and

(2) does not include the following amounts appropriated in BHB 1, Acts of the 75th Legislature, Regular Session, 1997:

(A) amounts appropriated under Rider 73 following appropriations to the Texas Education Agency in Article III of that Act; or

(B) amounts appropriated under Section 198 of Article IX of that Act.

(a-2) Subsection (a-1) and this subsection expire September 1, 1999.

SECTION 1.07. Section 403.302, Government Code, is amended by adding Subsections (h) and (i) to read as follows:

(h) For purposes of Sections 41.0011 and 42.2511, Education Code, for the 1996 and 1997 tax years, the comptroller shall certify to the commissioner of education:

(1) a final value for each school district computed on a residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, of \$5,000; and

(2) a final value for each school district computed on:

(A) a residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, of \$15,000; and

(B) the effect of the additional limitation on tax increases under Section 1-b(d), Article VIII, Texas Constitution, as proposed by HJR 4, 75th Legislature, Regular Session, 1997.

(i) Subsection (h) and this subsection expire September 1, 1999.

SECTION 1.08. Subchapter H, Chapter 42, Education Code, is repealed.

SECTION 1.09. (a) For the 1997-1998 and 1998-1999 school years, the

commissioner of education shall increase the entitlement under the Foundation School Program of a district that experiences additional salary cost resulting from this Act. The amount of additional salary cost shall be computed by determining what the district's salary cost for the 1996-1997 school year would have been if, for purposes of the minimum salary schedule under Section 21.402, Education Code, the amount appropriated for the Foundation School Program for the 1997-1998 state fiscal year were increased by \$520 million and comparing that cost and the amount the district was actually required to pay under Section 21.402, Education Code. For this purpose, the commissioner of education shall use 1996-1997 employment and salary data as reported through the Public Education Information Management System (PEIMS).

(b) A decision by the commissioner of education under this section is final and may not be appealed.

(c) Notwithstanding any other provision to the contrary, for a school district that entered into an employment contract with an individual before June 15, 1997, that specifies a salary supplement or addition to the salary schedule prescribed by law, the salary schedule to which the supplement or addition applies is the salary schedule prescribed by Section 21.402, Education Code, as that section applied for the 1996-1997 school year, except that an individual shall be paid at least the minimum salary prescribed by Section 21.402, Education Code, as that section applies for the 1997-1998 school year, for the step to which the individual is assigned. A school district is not required to increase the pay of any teacher or full-time librarian except as provided by Section 21.402, Education Code.

SECTION 1.10. In addition to other amounts appropriated for the fiscal biennium ending August 31, 1999:

(1) the sum of \$520 million is appropriated, for the fiscal year ending August 31, 1998, from the general revenue fund to the Texas Education Agency for purposes of the Foundation School Program; and

(2) the sum of \$520 million, plus the unexpended balance of the appropriation described by Subdivision (1) of this section, is appropriated, for the fiscal year ending August 31, 1999, from the general revenue fund to the Texas Education Agency for the same purpose.

SECTION 1.11. The amount appropriated in **HB 1**, Acts of the 75th Legislature, Regular Session, 1997, to the Texas Education Agency for Strategy A.2.2.—Maximizing School Facilities, in Article III of that Act, is reduced to \$100 million for the fiscal year ending August 31, 1998, and to \$100 million, plus the unexpended balance for the fiscal year 1998, for the fiscal year ending August 31, 1999.

SECTION 1.12. (a) The amount appropriated in **HB 1**, Acts of the 75th Legislature, Regular Session, 1997, to the Texas Education Agency for Strategy A.2.1.—Foundation School Program, in Article III of that Act, is increased by \$1 million for each year of the fiscal biennium ending August 31, 1999, and the basic allotment under Section 42.101, Education Code, is increased to \$2,396.

(b) The amounts appropriated under Rider 73 following the appropriations to the Texas Education Agency in Article III, **HB 1**, Acts of the 75th Legislature, Regular Session, 1997, to provide transition assistance to school

districts affected by an increase in the minimum salary schedule are reduced by \$36 million for the fiscal year ending August 31, 1998, and by \$31 million for the fiscal year ending August 31, 1999.

(c) The amounts appropriated under Section 198, Article IX, **HB 1**, Acts of the 75th Legislature, Regular Session, 1997, for increases in enrollment growth are increased by \$65 million.

SECTION 1.13. (a) Except as provided by Subsection (b) of this section, this article takes effect September 1, 1997.

(b) Sections 1.01, 1.03, 1.05, 1.06, 1.07, 1.09, 1.10, and 1.12 of this Act take effect September 1, 1997, but only if the constitutional amendment proposed by **HJR 4**, 75th Legislature, Regular Session, 1997, is adopted by the voters. If the proposed amendment is not adopted, Sections 1.01, 1.03, 1.05, 1.06, 1.07, 1.09, 1.10, and 1.12 of this Act have no effect.

## ARTICLE 2. PROPERTY TAXES

SECTION 2.01. Section 11.13(b), Tax Code, is amended to read as follows:

(b) An adult is entitled to exemption from taxation by a school district of \$15,000 [~~\$5,000~~] of the appraised value of the adult's [~~his~~] residence homestead, except that \$10,000 of the exemption does not apply to an entity operating under former Chapter 17, 18, 25, 26, 27, or 28, Education Code, as those chapters existed on May 1, 1995, as permitted by Section 11.301, Education Code.

SECTION 2.02. Section 11.26, Tax Code, is amended by amending Subsections (a) and (b) and adding Subsections (g) and (h) to read as follows:

(a) The tax officials shall appraise the property to which this section applies and calculate taxes as on other property, but if the tax so calculated exceeds the limitation imposed by this section, the tax imposed is the amount of the tax as limited by this section, except [~~Except~~] as otherwise provided by this section. A [~~Subsection (b) of this section, a~~] school district may not increase the total annual amount of ad valorem tax it imposes on the residence homestead of an individual 65 years or older above the amount of the tax it imposed in the first tax year the individual qualified that residence homestead for the exemption provided by [~~Subsection (c) of~~] Section 11.13(c) [~~11.13 of this code~~]. If the first tax year the individual qualified the residence homestead for the exemption provided by Section 11.13(c) was a tax year before the 1997 tax year, the amount of the limitation provided by this section is the amount of tax the school district imposed for the 1996 tax year less an amount equal to the amount determined by multiplying \$10,000 times the tax rate of the school district for the 1997 tax year, plus any 1997 tax attributable to improvements made in 1996, other than improvements made to comply with governmental regulations or repairs [~~The tax officials shall continue to appraise the property and to calculate taxes as on other property, but if the tax so calculated exceeds the limitation imposed by this section, the tax imposed is the tax imposed in the first year the individual qualified the residence homestead for the exemption~~].

(b) If an individual makes improvements to the individual's [~~his~~] residence homestead, other than improvements required to comply with governmental requirements or repairs, the school district may increase the tax on the

homestead in the first year the value of the homestead is increased on the appraisal roll because of the enhancement of value by the improvements. The amount of the tax increase is determined by applying the current tax rate to the difference in the assessed value of the homestead with the improvements and the assessed value it would have had without the improvements. A limitation [~~The limitations~~] imposed by [~~Subsection (a) of~~] this section then applies [~~apply~~] to the increased amount of tax until more improvements, if any, are made.

(g) Except as provided by Subsection (b), if an individual who receives a limitation on tax increases imposed by this section subsequently qualifies a different residence homestead for an exemption under Section 11.13, a school district may not impose ad valorem taxes on the subsequently qualified homestead in a year in an amount that exceeds the amount of taxes the school district would have imposed on the subsequently qualified homestead in the first year in which the individual receives that exemption for the subsequently qualified homestead had the limitation on tax increases imposed by this section not been in effect, multiplied by a fraction the numerator of which is the total amount of school district taxes imposed on the former homestead in the last year in which the individual received that exemption for the former homestead and the denominator of which is the total amount of school district taxes that would have been imposed on the former homestead in the last year in which the individual received that exemption for the former homestead had the limitation on tax increases imposed by this section not been in effect.

(h) An individual who receives a limitation on tax increases under this section and who subsequently qualifies a different residence homestead for an exemption under Section 11.13, or an agent of the individual, is entitled to receive from the chief appraiser of the appraisal district in which the former homestead was located a written certificate providing the information necessary to determine whether the individual may qualify for a limitation on the subsequently qualified homestead under Subsection (g) and to calculate the amount of taxes the school district may impose on the subsequently qualified homestead.

SECTION 2.03. Section 26.08, Tax Code, is amended to read as follows:

Sec. 26.08. ELECTION TO RATIFY [~~LIMIT~~] SCHOOL TAXES. (a) If the governing body of a school district adopts a tax rate that exceeds the [~~sum of the~~] district's rollback tax [~~effective maintenance~~] rate, [~~the rate of \$0.08, and the district's current debt rate,~~] the registered voters of the district at an election held for that purpose must determine whether to approve the adopted [~~limit the~~] tax rate [~~the governing body may adopt for the current year to the school district rollback tax rate~~]. When increased expenditure of money by a school district is necessary to respond to a disaster, including a tornado, hurricane, flood, or other calamity, but not including a drought, that has impacted a school district and the governor has requested federal disaster assistance for the area in which the school district is located, an election is not required under this section to approve [~~limit~~] the tax rate adopted by the governing body [~~may adopt~~] for the year following the year in which the disaster occurs.

(b) The governing body shall order that the [~~an~~] election be held in the school district on a date not less than 30 or more than 90 days after the day

on which it adopted the tax rate. Section 41.001, Election Code, does not apply to the election unless a date specified by that section falls within the time permitted by this section. At the election, the ballots shall be prepared to permit voting for or against the proposition: "Approving [Limiting] the ad valorem tax rate of \$ \_\_\_\_\_ per \$100 valuation in (name of school district) for the current year, a rate that is \$ \_\_\_\_\_ higher per \$100 valuation than [from (the rate adopted) to (the school district rollback tax rate)]." The ballot proposition must include the adopted tax rate and the difference between that rate and the rollback tax rate in the appropriate places.

(c) If a majority of the votes cast in the election favor the proposition, the tax rate for the current year is the rate that was adopted by the governing body.

(d) If [a majority of the votes cast in the election favor] the proposition is not approved as provided by Subsection (c), the governing body may not adopt a tax rate for the school district for the current year that exceeds the school district's [district] rollback tax rate [calculated for that year using the following formula:

ROLLBACK TAX RATE = (ENROLLMENT ADJUSTMENT) (EFFECTIVE MAINTENANCE AND OPERATIONS RATE FOR TAX YEAR) + \$0.08 + CURRENT DEBT RATE where:

[(1) "tax year" denotes amounts used in calculating the rollback tax rate in the year immediately preceding the year in which the tax increase that initiated the referendum occurred rather than the year in which the calculation occurs; and

[(2) "enrollment adjustment" is computed by dividing the current year's projected fall enrollment, as defined by the Texas Education Agency, by last year's enrollment but may not be less than 1.0].

(e) ~~[(d)]~~ For purposes of this section, local tax funds dedicated to a junior college district under Section 45.105(e), Education Code, shall be eliminated from the calculation of the tax rate adopted by the governing body of the school district. However, the funds dedicated to the junior college district are subject to Section 26.085.

(f) ~~[(e)]~~ If a school district is certified by the commissioner of education under Section 42.251(c), Education Code, to have been subject to a reduction in total revenue for the school year ending on August 31 of the tax year,[:

~~[(1) the district's effective maintenance and operations rate for the tax year is calculated as provided by Section 26.012, except that last year's levy is reduced by the amount of taxes imposed in the preceding year, if any, to offset the amount of the reduction certified by the commissioner; and~~

~~[(2) the district's rollback tax rate for the tax year [calculated as provided by Section 26.04 or by Subsection (e), as applicable;] is increased by the tax rate that, if applied to the current total value for the school district, would impose taxes in an amount equal to the amount of the reduction certified by the commissioner.~~

(g) ~~[(f)]~~ In a school district that received distributions from an equalization tax imposed under former Chapter 18, Education Code, the effective rate of that tax as of the date of the county unit system's abolition is added to the ~~[district's effective maintenance and operations rate under Subsections (a) and (c) of this section in the calculation of the]~~ district's rollback tax rate.

(h) [(†)] For purposes of this section, increases in taxable values and tax levies occurring within a reinvestment zone under ~~[the provisions of]~~ Chapter 311 (Tax Increment Financing Act), in which the district is a participant, shall be eliminated from the calculation of the tax rate adopted by the governing body of the school district.

(i) For purposes of this section, the rollback tax rate of a school district is the sum of:

(1) the tax rate that, applied to the current total value for the district, would impose taxes in an amount that, when added to state funds that would be distributed to the district under Chapter 42, Education Code, for the school year beginning in the current tax year using that tax rate, would provide the same amount of state funds distributed under Chapter 42 and maintenance and operations taxes of the district per student in weighted average daily attendance for that school year that was available to the district in the preceding year;

(2) the rate of \$0.08 per \$100 of taxable value; and

(3) the district's current debt rate.

(j) For the 1997 tax year, the rollback tax rate is the sum of:

(1) the greater of:

(A) the rate necessary to impose taxes in an amount that would provide the same amount of state and local funds per weighted student for maintenance and operations as determined under Subsection (i)(1) for the 1997-1998 school year that was available to the district in the 1996-1997 school year; or

(B) the district's nominal maintenance and operations tax rate for the 1996 tax year;

(2) the rate of \$0.08 per \$100 of taxable value; and

(3) the district's current debt rate.

(k) For the 1998 tax year, the rollback tax rate is the sum of:

(1) the greater of:

(A) the rate necessary to impose taxes in an amount that would provide the same amount of state and local funds per weighted student for maintenance and operations as determined under Subsection (i)(1) for the 1998-1999 school year that was available to the district in the 1996-1997 school year; or

(B) the district's nominal maintenance and operations tax rate for the 1996 tax year;

(2) the amount by which the district's adopted tax rate for the 1997 tax year exceeded the sum of Subsections (j)(1) and (j)(3) for that tax year;

(3) the rate of \$0.08 per \$100 of taxable value; and

(4) the district's current debt rate.

(l) This subsection and Subsections (j) and (k) expire January 1, 1999.

SECTION 2.04. (a) Sections 2.01 and 2.02 of this article take effect on the date that the constitutional amendment proposed by **HJR 4**, 75th Legislature, Regular Session, 1997, takes effect, and apply to each tax year that begins on or after January 1, 1997. If that amendment is not approved by the voters, Sections 2.01 and 2.02 of this article have no effect.

(b) Section 2.03 of this article takes effect September 1, 1997, and applies to the tax rate of a school district that is adopted by the governing body of

the district on or after that date. A school district tax rate adopted before the effective date of Section 2.03 of this article for 1997 taxes is void.

### ARTICLE 3. LOTTERY REVENUE

SECTION 3.01. Section 466.015, Government Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The commission may adopt rules governing the establishment and operation of the lottery, including rules governing:

(1) the type of lottery games to be conducted;

(2) the price of each ticket;

(3) the number of winning tickets and amount of the prize paid on each winning ticket, except that the total amount of prizes awarded under this chapter may not exceed the amount described in Subsection (d);

(4) the frequency of the drawing or selection of a winning ticket;

(5) the number and types of locations at which a ticket may be sold;

(6) the method to be used in selling a ticket;

(7) the use of vending machines or electronic or mechanical devices of any kind, other than machines or devices that dispense currency or coins as prizes;

(8) the manner of paying a prize to the holder of a winning ticket;

(9) the investigation of possible violations of this chapter or any rule adopted under this chapter;

(10) the means of advertising to be used for the lottery;

(11) the qualifications of vendors of lottery services or equipment;

(12) the confidentiality of information relating to the operation of the lottery, including:

(A) trade secrets;

(B) security measures, systems, or procedures;

(C) security reports;

(D) bids or other information regarding the commission's contracts, if disclosure of the information would impair the commission's ability to contract for facilities, goods, or services on terms favorable to the commission;

(E) personnel information unrelated to compensation, duties, qualifications, or responsibilities; and

(F) information obtained by commission security officers or investigators;

(13) the development and availability of a model agreement governing the division of a prize among multiple purchasers of a winning ticket purchased through a group purchase or pooling arrangement;

(14) the criteria to be used in evaluating bids for contracts for lottery facilities, goods, and services; or

(15) any other matter necessary or desirable as determined by the commission, to promote and ensure:

(A) the integrity, security, honesty, and fairness of the operation and administration of the lottery; and

(B) the convenience of players and holders of winning tickets.

(d) The total amount of lottery prizes that the commission may award for all lottery games in any fiscal year may not exceed an amount equal to the



gross revenue from the sale of tickets in that fiscal year multiplied by the percentage amount of lottery prizes awarded for all lottery games in fiscal year 1997 as determined by the comptroller minus an amount equal to five percent of gross lottery revenue for the fiscal year in which the prizes are being awarded.

SECTION 3.02. Section 466.355(b), Government Code, is amended to read as follows:

(b) Money in the state lottery account may be used only for the following purposes and shall be distributed as follows:

- (1) the payment of prizes to the holders of winning tickets;
- (2) the payment of costs incurred in the operation and administration of the lottery, including any fees received by a lottery operator, provided that the costs incurred in a fiscal biennium may not exceed an amount equal to 15 percent of the gross revenue accruing from the sale of tickets in that biennium;
- (3) the establishment of a pooled bond fund, lottery prize reserve fund, unclaimed prize fund, and prize payment account; and
- (4) the balance, after creation of a reserve sufficient to pay the amounts needed or estimated to be needed under Subdivisions (1) through (3), to be transferred to the foundation school [~~unobligated portion of the general revenue~~] fund, on or before the 15th day of each month.

SECTION 3.03. This article takes effect September 1, 1997.

SECTION 3.04. (a) Except as provided by Subsection (b) of this section, the change in law made to Section 466.015, Government Code, by this article applies to a ticket sold on or after the effective date of this article. A ticket sold before that date is governed by the law in effect when the ticket was sold, and that law is continued in effect for that purpose.

(b) In fiscal year 1998, the total amount of lottery prizes that the Texas Lottery Commission may award under Section 466.015(d), Government Code, as added by this article, may not exceed an amount equal to the gross revenue from the sale of lottery tickets multiplied by the percentage amount of lottery prizes awarded for all lottery games in fiscal year 1997 as determined by the comptroller minus an amount equal to 4-1/2 percent of gross lottery revenue for the 1998 fiscal year.

SECTION 3.05. The change in law made to Section 466.355, Government Code, by this article applies only to a transfer from the state lottery account made on or after the effective date of this article.

#### ARTICLE 4. EMERGENCY

SECTION 4.01. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Explanation: This change is necessary to provide for the distribution of available revenue for property tax relief to owners of homestead property, to provide a funding mechanism to compensate school districts for the amounts of losses of local revenue occurring as a result of the added homestead exemptions and tax limitations, to allocate certain funds for school debt service, to increase the minimum salary schedule for public school teachers, to make,

limit, and transfer appropriations for those purposes, to provide for the computation of the school tax rollback rate, and to increase and dedicate certain revenue from the state lottery.

**HR 1303** was adopted without objection. (Davis and Tillery recorded voting no)

#### **HJR 4 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Sadler submitted the following conference committee report on **HJR 4**:

Austin, Texas, May 29, 1997

Honorable Bob Bullock  
President of the Senate

Honorable Pete Laney  
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on **HJR 4** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Armbrister  
Bivins  
Harris  
Shapiro

Sadler  
Brimer  
Craddick  
Hochberg  
Stiles

On the part of the Senate

On the part of the House

**HJR 4**, A joint resolution proposing a constitutional amendment increasing the amount of the school property tax residence homestead exemption and providing for the continuation and reduction of the school tax limitation on the homesteads of certain persons.

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

SECTION 1. Sections 1-b(c) and (d), Article VIII, Texas Constitution, are amended to read as follows:

(c) Fifteen Thousand Dollars (\$15,000) [~~Five Thousand Dollars (\$5,000)~~] of the market value of the residence homestead of a married or unmarried adult, including one living alone, is exempt from ad valorem taxation for general elementary and secondary public school purposes. The legislature by general law may provide that all or part of the exemption does not apply to a district or political subdivision that imposes ad valorem taxes for public education purposes but is not the principal school district providing general elementary and secondary public education throughout its territory. In addition to this exemption, the legislature by general law may exempt an amount not to exceed Ten Thousand Dollars (\$10,000) of the market value of the residence homestead of a person who is disabled as defined in Subsection (b) of this section and of a person sixty-five (65) years of age or older from ad valorem taxation for general elementary and secondary public school purposes. The legislature by general law may base the amount of and condition eligibility for the additional

exemption authorized by this subsection for disabled persons and for persons sixty-five (65) years of age or older on economic need. An eligible disabled person who is sixty-five (65) years of age or older may not receive both exemptions from a school district but may choose either. An eligible person is entitled to receive both the exemption required by this subsection for all residence homesteads and any exemption adopted pursuant to Subsection (b) of this section, but the legislature shall provide by general law whether an eligible disabled or elderly person may receive both the additional exemption for the elderly and disabled authorized by this subsection and any exemption for the elderly or disabled adopted pursuant to Subsection (b) of this section. Where ad valorem tax has previously been pledged for the payment of debt, the taxing officers of a school district may continue to levy and collect the tax against the value of homesteads exempted under this subsection until the debt is discharged if the cessation of the levy would impair the obligation of the contract by which the debt was created. The legislature shall provide for formulas to protect school districts against all or part of the revenue loss incurred by the implementation of Article VIII, Sections 1-b(c), 1-b(d), and 1-d-1, of this constitution. The legislature by general law may define residence homestead for purposes of this section.

(d) Except as otherwise provided by this subsection, if a person receives the residence homestead exemption prescribed by Subsection (c) of this section for homesteads of persons sixty-five (65) years of age or older, the total amount of ad valorem taxes imposed on that homestead for general elementary and secondary public school purposes may not be increased while it remains the residence homestead of that person or that person's spouse who receives the exemption. If a person sixty-five (65) years of age or older dies in a year in which the person received the exemption, the total amount of ad valorem taxes imposed on the homestead for general elementary and secondary public school purposes may not be increased while it remains the residence homestead of that person's surviving spouse if the spouse is fifty-five (55) years of age or older at the time of the person's death, subject to any exceptions provided by general law. The legislature, by general law, may provide for the transfer of all or a proportionate amount of a limitation provided by this subsection for a person who qualifies for the limitation and establishes a different residence homestead. However, taxes otherwise limited by this subsection may be increased to the extent the value of the homestead is increased by improvements other than repairs or improvements made to comply with governmental requirements and except as may be consistent with the transfer of a limitation under this subsection. For a residence homestead subject to the limitation provided by this subsection in the 1996 tax year or an earlier tax year, the legislature shall provide for a reduction in the amount of the limitation for the 1997 tax year and subsequent tax years in an amount equal to \$10,000 multiplied by the 1997 tax rate for general elementary and secondary public school purposes applicable to the residence homestead.

SECTION 2. The following temporary provision is added to the Texas Constitution:

TEMPORARY PROVISION. (a) This temporary provision applies to the constitutional amendment proposed by HJR 4, 75th Legislature, Regular Session, 1997, and expires January 2, 1998.

(b) The amendment to Section 1-b(c), Article VIII, of this constitution takes effect for the tax year beginning January 1, 1997.

SECTION 3. This proposed constitutional amendment shall be submitted to the voters at an election to be held August 9, 1997. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment providing school property tax relief by increasing the residence homestead exemption by \$10,000 and providing for the transfer of the tax limitation to another qualified homestead for persons over 65 and a reduction in taxes on homesteads subject to the limitation."

Representative Sadler moved to adopt the conference committee report on **HJR 4**.

A record vote was requested.

The motion prevailed by (Record 619): 126 Yeas, 18 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berlanga; Bonnen; Bosse; Brimer; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Delisi; Denny; Driver; Dunnam; Dutton; Edwards; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, R.; Madden; Marchant; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Thompson; Torres; Turner, B.; Walker; West; Williams; Williamson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Nays — Alvarado; Bailey; Burnam; Davila; Davis; Dukes; Ehrhardt; Garcia; Lewis, G.; Longoria; Luna; Maxey; Telford; Tillery; Turner, S.; Uher; Van de Putte; Wilson.

Present, not voting — Mr. Speaker(C); Reyna, A.

Absent, Excused — Giddings; Price; Serna.

#### MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

#### HB 4 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Sadler submitted the following conference committee report on **HB 4**:

Austin, Texas, May 29, 1997

Honorable Bob Bullock  
President of the Senate

Honorable Pete Laney  
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 4** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Armbrister	Sadler
Bivins	Brimer
Harris	Craddick
Luna	Hochberg
Shapiro	Stiles
On the part of the Senate	On the part of the House

**HB 4**, A bill to be entitled An Act relating to residence homestead school property tax exemptions and tax limitations, allocating and dedicating certain state funds for education, limiting the increase in school property tax rates, and providing for certain additional revenue; making an appropriation.

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

#### ARTICLE 1. SCHOOL FINANCE

SECTION 1.01. Subchapter A, Chapter 41, Education Code, is amended by adding Section 41.0011 to read as follows:

Sec. 41.0011. COMPUTATION OF WEALTH PER STUDENT FOR 1997-1998 SCHOOL YEAR. (a) Notwithstanding any other provision of this chapter, in computing a school district's wealth per student for the 1997-1998 school year, a school district's taxable value of property under Subchapter M, Chapter 403, Government Code, is determined as if the increase in the homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, and the additional limitation on tax increases under Section 1-b(d) of that article, as proposed by HJR 4, 75th Legislature, Regular Session, 1997, had been in effect for the 1996 tax year.

(b) This section expires September 1, 1998.

SECTION 1.02. Section 41.093, Education Code, is amended to read as follows:

Sec. 41.093. COST. The cost of each credit is an amount equal to the greater of:

(1) the amount of the district's maintenance and operations [total] tax revenue per student in weighted average daily attendance for the school year for which the contract is executed; or

(2) the amount of the statewide district average of maintenance and operations [total] tax revenue per student in weighted average daily attendance for the school year preceding the school year for which the contract is executed.

SECTION 1.03. Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.2511 to read as follows:

Sec. 42.2511. COMPUTATION OF STATE AID FOR 1997-1998 SCHOOL YEAR; ADDITIONAL STATE AID. (a) Notwithstanding any other provision of this chapter, in computing state aid for the 1997-1998 school year, a school district's taxable value of property under Subchapter M, Chapter 403, Government Code, is determined as if the increase in the homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, and the additional limitation on tax increases under Section 1-b(d) of that article, as proposed by **HJR 4**, 75th Legislature, Regular Session, 1997, had been in effect for the 1996 tax year.

(b) For the 1997-1998 and 1998-1999 school years, a school district is entitled to additional state aid to the extent that state aid under this chapter based on the determination of the school district's taxable value of property as provided by Subsection (a) does not fully compensate the district for ad valorem tax revenue that would have been lost due to the increase in the homestead exemption and the additional limitation on tax increases if the increased exemption and additional limitation had been in effect for the 1996 tax year. The commissioner, using information provided by the comptroller, shall compute the amount of additional state aid to which a district is entitled under this subsection. A determination by the commissioner under this subsection is final and may not be appealed.

(c) This section expires September 1, 1999.

SECTION 1.04. Subtitle I, Title 2, Education Code, is amended by adding Chapter 46 to read as follows:

#### CHAPTER 46. INSTRUCTIONAL FACILITIES ALLOTMENT

Sec. 46.001. DEFINITION. In this chapter, "instructional facility" means real property, an improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching the curriculum required under Section 28.002.

Sec. 46.002. RULES. (a) The commissioner may adopt rules for the administration of this chapter.

(b) The commissioner's rules may limit the amount of an allotment under this chapter that is to be used to construct, acquire, renovate, or improve an instructional facility that may also be used for noninstructional or extracurricular activities.

Sec. 46.003. SCHOOL FACILITIES ALLOTMENT. (a) For each year, except as provided by Sections 46.005 and 46.006, a school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort, up to the maximum rate under Subsection (b), to pay the principal of and interest on eligible bonds issued to construct, acquire, renovate, or improve an instructional facility. The amount of state support is determined by the formula:

$$\text{FYA} = (\text{FYL} \times \text{ADA} \times \text{BTR} \times 100) - (\text{BTR} \times (\text{DPV}/100))$$

where:

"FYA" is the guaranteed facilities yield amount of state funds allocated to the district for the year;

"FYL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is \$28 or a greater amount for any year provided by appropriation;

"ADA" is the number of students in average daily attendance, as determined under Section 42.005, in the district;

"BTR" is the district's bond tax rate for the current year, which is determined by dividing the amount of taxes budgeted to be collected by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code; and

"DPV" is the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code.

(b) The bond tax rate under Subsection (a) may not exceed the rate that would be necessary for the current year, using state funds under Subsection (a), to make payments of principal and interest on the bonds for which the tax is pledged.

(c) To enable the district to collect local funds sufficient to pay the district's share of the debt service, a district may levy a bond tax at a rate higher than the maximum rate for which it may receive state assistance.

(d) Bonds are eligible to be paid with state and local funds under this section if:

(1) taxes to pay the principal of and interest on the bonds were first levied in the 1997-1998 school year or a later school year; and

(2) the bonds do not have a weighted average maturity of less than eight years.

(e) A district may use state funds received under this section only to pay the principal of and interest on the bonds for which the district received the funds.

(f) The board of trustees and voters of a school district shall determine district needs concerning construction, acquisition, renovation, or improvement of instructional facilities.

(g) To receive state assistance under this chapter, a school district must apply to the commissioner in accordance with rules adopted by the commissioner before issuing bonds that will be paid with state assistance. Until the bonds are fully paid or the instructional facility is sold:

(1) a school district is entitled to continue receiving state assistance without reapplying to the commissioner; and

(2) the guaranteed level of state and local funds per student per cent of tax effort applicable to the bonds may not be reduced below the level provided for the year in which the bonds were issued.

Sec. 46.004. LEASE-PURCHASE AGREEMENTS. (a) A district may receive state assistance in connection with a lease-purchase agreement concerning an instructional facility. For purposes of this chapter:

(1) taxes levied for purposes of maintenance and operations that are necessary to pay a district's share of the payments under a lease-purchase agreement for which the district receives state assistance under this chapter are considered to be bond taxes; and

(2) payments under a lease-purchase agreement are considered to be payments of principal of and interest on bonds.

(b) Section 46.003(b) applies to taxes levied to pay a district's share of the payments under a lease-purchase agreement for which the district receives state assistance under this chapter.



(c) A lease-purchase agreement must be for a term of at least eight years to be eligible to be paid with state and local funds under this chapter.

Sec. 46.005. LIMITATION ON GUARANTEED AMOUNT. The guaranteed amount of state and local funds for a new project that a district may be awarded in any state fiscal biennium under Section 46.003 for a school district may not exceed the lesser of:

(1) the amount the actual debt service payments the district makes in the biennium in which the bonds are issued; or

(2) the greater of:

(A) \$100,000; or

(B) the product of the number of students in average daily attendance in the district multiplied by \$250.

Sec. 46.006. SHORTAGE OR EXCESS OF FUNDS APPROPRIATED FOR NEW PROJECTS. (a) If the total amount appropriated for a year for new projects is less than the amount of money to which school districts applying for state assistance are entitled for that year, the commissioner shall rank each school district applying by wealth per student. For purposes of this section, a district's wealth per student is reduced by 10 percent for each state fiscal biennium in which the district did not receive assistance under this chapter. The commissioner shall adjust the rankings after making the reductions in wealth per student required by this subsection.

(b) Beginning with the district with the lowest adjusted wealth per student that has applied for state assistance for the year, the commissioner shall award state assistance to districts that have applied for state assistance in ascending order of adjusted wealth per student. The commissioner shall award the full amount of state assistance to which a district is entitled under this chapter, except that the commissioner may award less than the full amount to the last district for which any funds are available.

(c) Any amount appropriated for the first year of a fiscal biennium that is not awarded to a school district may be used to provide assistance in the following fiscal year.

(d) In this section, "wealth per student" means a school district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, divided by the district's average daily attendance as determined under Section 42.005.

Sec. 46.007. REFUNDING BONDS. A school district may use state funds received under this chapter to pay the principal of and interest on refunding bonds that:

(1) are issued to refund bonds eligible under Section 46.003;

(2) do not have a final maturity date later than the final maturity date of the bonds being refunded;

(3) may not be called for redemption earlier than the earliest call date of the bonds being refunded; and

(4) result in a present value savings, which is determined by computing the net present value of the difference between each scheduled payment on the original bonds and each scheduled payment on the refunding bonds. The present value savings shall be computed at the true interest cost of the refunding bonds.

Sec. 46.008. STANDARDS. The commissioner shall establish standards for adequacy of school facilities. The standards must include requirements related to space, educational adequacy, and construction quality. All new facilities constructed after September 1, 1998, must meet the standards to be eligible to be financed with state or local tax funds.

Sec. 46.009. PAYMENT OF SCHOOL FACILITIES ALLOTMENTS. (a) For each school year, the commissioner shall determine the amount of money to which each school district is entitled under this chapter.

(b) If the amount appropriated for purposes of this chapter for a year is less than the total amount determined under Subsection (a) for that year, the commissioner shall:

(1) transfer from the Foundation School Program to the instructional facilities program the amount by which the total amount determined under Subsection (a) exceeds the amount appropriated; and

(2) reduce each district's foundation school fund allocations in the manner provided by Section 42.253.

(c) Warrants for payments under this chapter shall be approved and transmitted to school district treasurers or depositories in the same manner as warrants for payments under Chapter 42.

(d) As soon as practicable after September 1 of each year, the commissioner shall distribute to each school district the amount of state assistance under this chapter to which the commissioner has determined the district is entitled for the school year. The district shall deposit the money in the interest and sinking fund for the bonds for which the assistance is received and shall adopt a tax rate for purposes of debt service that takes into account the balance of the interest and sinking fund.

(e) Section 42.258 applies to payments under this chapter.

(f) If a school district would have received a greater amount under this chapter for the applicable school year using the adjusted value determined under Section 42.257, the commissioner shall add the difference between the adjusted value and the amount the district received under this chapter to subsequent distributions to the district under this chapter.

Sec. 46.010. PROJECTS BY MORE THAN ONE DISTRICT. If two or more districts apply for state assistance in connection with a joint project at a single location, each district is entitled to a guaranteed facilities yield amount of state and local funds that is 20 percent higher than the amount to which the district would otherwise be entitled under Section 46.005.

Sec. 46.011. SALE OF INSTRUCTIONAL FACILITY FINANCED WITH INSTRUCTIONAL FACILITIES ALLOTMENT. (a) If an instructional facility financed by bonds paid with state and local funds under this chapter is sold before the bonds are fully paid, the school district shall send to the comptroller an amount equal to the district's net proceeds from the sale multiplied by a percentage determined by dividing the amount of state funds under this subchapter used to pay the principal of and interest on the bonds by the total amount of principal and interest paid on the bonds with funds other than the proceeds of the sale.

(b) In this section, "net proceeds" means the difference between the total amount received from the sale less:

(1) the amount necessary to fully pay the outstanding principal of and interest on the bonds; and

(2) the school district's costs of the sale, as approved by the commissioner.

SECTION 1.05. Section 21.401, Education Code, is amended by adding Subsections (a-3) and (a-4) and amending Subsection (b-1) to read as follows:

(a-3) For the 1997-1998 school year, an educator employed under a 10-month contract must provide a minimum of 186 days of service. This subsection expires September 1, 1998.

(a-4) For the 1998-1999 school year, an educator employed under a 10-month contract must provide a minimum of 187 days of service. This subsection expires September 1, 1999.

(b-1) Subsection (b) applies beginning with the 1999-2000 [~~1997-1998~~] school year. This subsection expires January 1, 2000 [~~1998~~].

SECTION 1.06. Section 21.402, Education Code, is amended by adding Subsections (a-1) and (a-2) to read as follows:

(a-1) Notwithstanding Subsection (a), for the 1997-1998 and 1998-1999 school years, "FSP" for purposes of Subsection (a):

(1) includes amounts appropriated in HB 4, Acts of the 75th Legislature, Regular Session, 1997; and

(2) does not include the following amounts appropriated in H.B. No. 1, Acts of the 75th Legislature, Regular Session, 1997:

(A) amounts appropriated under Rider 73 following appropriations to the Texas Education Agency in Article III of that Act; or

(B) amounts appropriated under Section 198 of Article IX of that Act.

(a-2) Subsection (a-1) and this subsection expire September 1, 1999.

SECTION 1.07. Section 403.302, Government Code, is amended by adding Subsections (h) and (i) to read as follows:

(h) For purposes of Sections 41.0011 and 42.2511, Education Code, for the 1996 and 1997 tax years, the comptroller shall certify to the commissioner of education:

(1) a final value for each school district computed on a residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, of \$5,000; and

(2) a final value for each school district computed on:

(A) a residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, of \$15,000; and

(B) the effect of the additional limitation on tax increases under Section 1-b(d), Article VIII, Texas Constitution, as proposed by H.J.R. No. 4, 75th Legislature, Regular Session, 1997.

(i) Subsection (h) and this subsection expire September 1, 1999.

SECTION 1.08. Subchapter H, Chapter 42, Education Code, is repealed.

SECTION 1.09. (a) For the 1997-1998 and 1998-1999 school years, the commissioner of education shall increase the entitlement under the Foundation School Program of a district that experiences additional salary cost resulting from this Act. The amount of additional salary cost shall be computed by determining what the district's salary cost for the 1996-1997 school year would

have been if, for purposes of the minimum salary schedule under Section 21.402, Education Code, the amount appropriated for the Foundation School Program for the 1997-1998 state fiscal year were increased by \$520 million and comparing that cost and the amount the district was actually required to pay under Section 21.402, Education Code. For this purpose, the commissioner of education shall use 1996-1997 employment and salary data as reported through the Public Education Information Management System (PEIMS).

(b) A decision by the commissioner of education under this section is final and may not be appealed.

(c) Notwithstanding any other provision to the contrary, for a school district that entered into an employment contract with an individual before June 15, 1997, that specifies a salary supplement or addition to the salary schedule prescribed by law, the salary schedule to which the supplement or addition applies is the salary schedule prescribed by Section 21.402, Education Code, as that section applied for the 1996-1997 school year, except that an individual shall be paid at least the minimum salary prescribed by Section 21.402, Education Code, as that section applies for the 1997-1998 school year, for the step to which the individual is assigned. A school district is not required to increase the pay of any teacher or full-time librarian except as provided by Section 21.402, Education Code.

SECTION 1.10. In addition to other amounts appropriated for the fiscal biennium ending August 31, 1999:

(1) the sum of \$520 million is appropriated, for the fiscal year ending August 31, 1998, from the general revenue fund to the Texas Education Agency for purposes of the Foundation School Program; and

(2) the sum of \$520 million, plus the unexpended balance of the appropriation described by Subdivision (1) of this section, is appropriated, for the fiscal year ending August 31, 1999, from the general revenue fund to the Texas Education Agency for the same purpose.

SECTION 1.11. The amount appropriated in H.B. No. 1, Acts of the 75th Legislature, Regular Session, 1997, to the Texas Education Agency for Strategy A.2.2.—Maximizing School Facilities, in Article III of that Act, is reduced to \$100 million for the fiscal year ending August 31, 1998, and to \$100 million, plus the unexpended balance for the fiscal year 1998, for the fiscal year ending August 31, 1999.

SECTION 1.12. (a) The amount appropriated in H.B. No. 1, Acts of the 75th Legislature, Regular Session, 1997, to the Texas Education Agency for Strategy A.2.1.—Foundation School Program, in Article III of that Act, is increased by \$1 million for each year of the fiscal biennium ending August 31, 1999, and the basic allotment under Section 42.101, Education Code, is increased to \$2,396.

(b) The amounts appropriated under Rider 73 following the appropriations to the Texas Education Agency in Article III, H.B. No. 1, Acts of the 75th Legislature, Regular Session, 1997, to provide transition assistance to school districts affected by an increase in the minimum salary schedule are reduced by \$36 million for the fiscal year ending August 31, 1998, and by \$31 million for the fiscal year ending August 31, 1999.

(c) The amounts appropriated under Section 198, Article IX, H.B. No. 1,

Acts of the 75th Legislature, Regular Session, 1997, for increases in enrollment growth are increased by \$65 million.

SECTION 1.13. (a) Except as provided by Subsection (b) of this section, this article takes effect September 1, 1997.

(b) Sections 1.01, 1.03, 1.05, 1.06, 1.07, 1.09, 1.10, and 1.12 of this Act take effect September 1, 1997, but only if the constitutional amendment proposed by **HJR 4**, 75th Legislature, Regular Session, 1997, is adopted by the voters. If the proposed amendment is not adopted, Sections 1.01, 1.03, 1.05, 1.06, 1.07, 1.09, 1.10, and 1.12 of this Act have no effect.

## ARTICLE 2. PROPERTY TAXES

SECTION 2.01. Section 11.13(b), Tax Code, is amended to read as follows:

(b) An adult is entitled to exemption from taxation by a school district of \$15,000 [~~\$5,000~~] of the appraised value of the adult's [~~his~~] residence homestead, except that \$10,000 of the exemption does not apply to an entity operating under former Chapter 17, 18, 25, 26, 27, or 28, Education Code, as those chapters existed on May 1, 1995, as permitted by Section 11.301, Education Code.

SECTION 2.02. Section 11.26, Tax Code, is amended by amending Subsections (a) and (b) and adding Subsections (g) and (h) to read as follows:

(a) The tax officials shall appraise the property to which this section applies and calculate taxes as on other property, but if the tax so calculated exceeds the limitation imposed by this section, the tax imposed is the amount of the tax as limited by this section, except [~~Except~~] as otherwise provided by this section. A [~~Subsection (b) of this section, a~~] school district may not increase the total annual amount of ad valorem tax it imposes on the residence homestead of an individual 65 years or older above the amount of the tax it imposed in the first tax year the individual qualified that residence homestead for the exemption provided by [~~Subsection (c) of~~] Section 11.13(c) [~~11.13 of this code~~]. If the first tax year the individual qualified the residence homestead for the exemption provided by Section 11.13(c) was a tax year before the 1997 tax year, the amount of the limitation provided by this section is the amount of tax the school district imposed for the 1996 tax year less an amount equal to the amount determined by multiplying \$10,000 times the tax rate of the school district for the 1997 tax year, plus any 1997 tax attributable to improvements made in 1996, other than improvements made to comply with governmental regulations or repairs [~~The tax officials shall continue to appraise the property and to calculate taxes as on other property, but if the tax so calculated exceeds the limitation imposed by this section, the tax imposed is the tax imposed in the first year the individual qualified the residence homestead for the exemption~~].

(b) If an individual makes improvements to the individual's [~~his~~] residence homestead, other than improvements required to comply with governmental requirements or repairs, the school district may increase the tax on the homestead in the first year the value of the homestead is increased on the appraisal roll because of the enhancement of value by the improvements. The amount of the tax increase is determined by applying the current tax rate to the difference in the assessed value of the homestead with the improvements

and the assessed value it would have had without the improvements. A limitation [~~The limitations~~] imposed by [~~Subsection (a) of~~] this section then applies [~~apply~~] to the increased amount of tax until more improvements, if any, are made.

(g) Except as provided by Subsection (b), if an individual who receives a limitation on tax increases imposed by this section subsequently qualifies a different residence homestead for an exemption under Section 11.13, a school district may not impose ad valorem taxes on the subsequently qualified homestead in a year in an amount that exceeds the amount of taxes the school district would have imposed on the subsequently qualified homestead in the first year in which the individual receives that exemption for the subsequently qualified homestead had the limitation on tax increases imposed by this section not been in effect, multiplied by a fraction the numerator of which is the total amount of school district taxes imposed on the former homestead in the last year in which the individual received that exemption for the former homestead and the denominator of which is the total amount of school district taxes that would have been imposed on the former homestead in the last year in which the individual received that exemption for the former homestead had the limitation on tax increases imposed by this section not been in effect.

(h) An individual who receives a limitation on tax increases under this section and who subsequently qualifies a different residence homestead for an exemption under Section 11.13, or an agent of the individual, is entitled to receive from the chief appraiser of the appraisal district in which the former homestead was located a written certificate providing the information necessary to determine whether the individual may qualify for a limitation on the subsequently qualified homestead under Subsection (g) and to calculate the amount of taxes the school district may impose on the subsequently qualified homestead.

SECTION 2.03. Section 26.08, Tax Code, is amended to read as follows:

Sec. 26.08. ELECTION TO RATIFY [~~LIMIT~~] SCHOOL TAXES. (a) If the governing body of a school district adopts a tax rate that exceeds the [~~sum of the~~] district's rollback tax [~~effective maintenance~~] rate, [~~the rate of \$0.08, and the district's current debt rate,~~] the registered voters of the district at an election held for that purpose must determine whether to approve the adopted [~~limit the~~] tax rate [~~the governing body may adopt for the current year to the school district rollback tax rate~~]. When increased expenditure of money by a school district is necessary to respond to a disaster, including a tornado, hurricane, flood, or other calamity, but not including a drought, that has impacted a school district and the governor has requested federal disaster assistance for the area in which the school district is located, an election is not required under this section to approve [~~limit~~] the tax rate adopted by the governing body [~~may adopt~~] for the year following the year in which the disaster occurs.

(b) The governing body shall order that the [~~an~~] election be held in the school district on a date not less than 30 or more than 90 days after the day on which it adopted the tax rate. Section 41.001, Election Code, does not apply to the election unless a date specified by that section falls within the time permitted by this section. At the election, the ballots shall be prepared to permit voting for or against the proposition: "Approving [~~Limiting~~] the ad



valorem tax rate of \$ \_\_\_\_\_ per \$100 valuation in (name of school district) for the current year, a rate that is \$ \_\_\_\_\_ higher per \$100 valuation than [from (the rate adopted) to (the school district rollback tax rate)]." The ballot proposition must include the adopted tax rate and the difference between that rate and the rollback tax rate in the appropriate places.

(c) If a majority of the votes cast in the election favor the proposition, the tax rate for the current year is the rate that was adopted by the governing body.

(d) If [a majority of the votes cast in the election favor] the proposition is not approved as provided by Subsection (c), the governing body may not adopt a tax rate for the school district for the current year that exceeds the school district's [district] rollback tax rate [calculated for that year using the following formula:

ROLLBACK TAX RATE = (ENROLLMENT ADJUSTMENT) (EFFECTIVE MAINTENANCE AND OPERATIONS RATE FOR TAX YEAR) + \$0.08 + CURRENT DEBT RATE where:

[(1) "tax year" denotes amounts used in calculating the rollback tax rate in the year immediately preceding the year in which the tax increase that initiated the referendum occurred rather than the year in which the calculation occurs; and

[(2) "enrollment adjustment" is computed by dividing the current year's projected fall enrollment, as defined by the Texas Education Agency, by last year's enrollment but may not be less than 1.0].

(e) ~~[(d)]~~ For purposes of this section, local tax funds dedicated to a junior college district under Section 45.105(e), Education Code, shall be eliminated from the calculation of the tax rate adopted by the governing body of the school district. However, the funds dedicated to the junior college district are subject to Section 26.085.

(f) ~~[(e)]~~ If a school district is certified by the commissioner of education under Section 42.251(c), Education Code, to have been subject to a reduction in total revenue for the school year ending on August 31 of the tax year, [:

~~[(1) the district's effective maintenance and operations rate for the tax year is calculated as provided by Section 26.012, except that last year's levy is reduced by the amount of taxes imposed in the preceding year, if any, to offset the amount of the reduction certified by the commissioner; and~~

~~[(2)] the district's rollback tax rate for the tax year [calculated as provided by Section 26.04 or by Subsection (c), as applicable,] is increased by the tax rate that, if applied to the current total value for the school district, would impose taxes in an amount equal to the amount of the reduction certified by the commissioner.~~

(g) ~~[(f)]~~ In a school district that received distributions from an equalization tax imposed under former Chapter 18, Education Code, the effective rate of that tax as of the date of the county unit system's abolition is added to the ~~[district's effective maintenance and operations rate under Subsections (a) and (c) of this section in the calculation of the]~~ district's rollback tax rate.

(h) ~~[(g)]~~ For purposes of this section, increases in taxable values and tax levies occurring within a reinvestment zone under ~~[the provisions of]~~ Chapter 311 (Tax Increment Financing Act), in which the district is a participant, shall be eliminated from the calculation of the tax rate adopted by the governing body of the school district.



(i) For purposes of this section, the rollback tax rate of a school district is the sum of:

(1) the tax rate that, applied to the current total value for the district, would impose taxes in an amount that, when added to state funds that would be distributed to the district under Chapter 42, Education Code, for the school year beginning in the current tax year using that tax rate, would provide the same amount of state funds distributed under Chapter 42 and maintenance and operations taxes of the district per student in weighted average daily attendance for that school year that was available to the district in the preceding year;

(2) the rate of \$0.08 per \$100 of taxable value; and

(3) the district's current debt rate.

(j) For the 1997 tax year, the rollback tax rate is the sum of:

(1) the greater of:

(A) the rate necessary to impose taxes in an amount that would provide the same amount of state and local funds per weighted student for maintenance and operations as determined under Subsection (i)(1) for the 1997-1998 school year that was available to the district in the 1996-1997 school year; or

(B) the district's nominal maintenance and operations tax rate for the 1996 tax year;

(2) the rate of \$0.08 per \$100 of taxable value; and

(3) the district's current debt rate.

(k) For the 1998 tax year, the rollback tax rate is the sum of:

(1) the greater of:

(A) the rate necessary to impose taxes in an amount that would provide the same amount of state and local funds per weighted student for maintenance and operations as determined under Subsection (i)(1) for the 1998-1999 school year that was available to the district in the 1996-1997 school year; or

(B) the district's nominal maintenance and operations tax rate for the 1996 tax year;

(2) the amount by which the district's adopted tax rate for the 1997 tax year exceeded the sum of Subsections (j)(1) and (j)(3) for that tax year;

(3) the rate of \$0.08 per \$100 of taxable value; and

(4) the district's current debt rate.

(l) This subsection and Subsections (j) and (k) expire January 1, 1999.

SECTION 2.04. (a) Sections 2.01 and 2.02 of this article take effect on the date that the constitutional amendment proposed by **HJR 4**, 75th Legislature, Regular Session, 1997, takes effect, and apply to each tax year that begins on or after January 1, 1997. If that amendment is not approved by the voters, Sections 2.01 and 2.02 of this article have no effect.

(b) Section 2.03 of this article takes effect September 1, 1997, and applies to the tax rate of a school district that is adopted by the governing body of the district on or after that date. A school district tax rate adopted before the effective date of Section 2.03 of this article for 1997 taxes is void.

### ARTICLE 3. LOTTERY REVENUE

SECTION 3.01. Section 466.015, Government Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The commission may adopt rules governing the establishment and operation of the lottery, including rules governing:

- (1) the type of lottery games to be conducted;
- (2) the price of each ticket;
- (3) the number of winning tickets and amount of the prize paid on each winning ticket, except that the total amount of prizes awarded under this chapter may not exceed the amount described in Subsection (d);
- (4) the frequency of the drawing or selection of a winning ticket;
- (5) the number and types of locations at which a ticket may be sold;
- (6) the method to be used in selling a ticket;
- (7) the use of vending machines or electronic or mechanical devices of any kind, other than machines or devices that dispense currency or coins as prizes;
- (8) the manner of paying a prize to the holder of a winning ticket;
- (9) the investigation of possible violations of this chapter or any rule adopted under this chapter;
- (10) the means of advertising to be used for the lottery;
- (11) the qualifications of vendors of lottery services or equipment;
- (12) the confidentiality of information relating to the operation of the lottery, including:

- (A) trade secrets;
- (B) security measures, systems, or procedures;
- (C) security reports;
- (D) bids or other information regarding the commission's contracts, if disclosure of the information would impair the commission's ability to contract for facilities, goods, or services on terms favorable to the commission;
- (E) personnel information unrelated to compensation, duties, qualifications, or responsibilities; and
- (F) information obtained by commission security officers or investigators;

(13) the development and availability of a model agreement governing the division of a prize among multiple purchasers of a winning ticket purchased through a group purchase or pooling arrangement;

(14) the criteria to be used in evaluating bids for contracts for lottery facilities, goods, and services; or

(15) any other matter necessary or desirable as determined by the commission, to promote and ensure:

(A) the integrity, security, honesty, and fairness of the operation and administration of the lottery; and

(B) the convenience of players and holders of winning tickets.

(d) The total amount of lottery prizes that the commission may award for all lottery games in any fiscal year may not exceed an amount equal to the gross revenue from the sale of tickets in that fiscal year multiplied by the percentage amount of lottery prizes awarded for all lottery games in fiscal year 1997 as determined by the comptroller minus an amount equal to five percent of gross lottery revenue for the fiscal year in which the prizes are being awarded.

SECTION 3.02. Section 466.355(b), Government Code, is amended to read as follows:

(b) Money in the state lottery account may be used only for the following purposes and shall be distributed as follows:

(1) the payment of prizes to the holders of winning tickets;

(2) the payment of costs incurred in the operation and administration of the lottery, including any fees received by a lottery operator, provided that the costs incurred in a fiscal biennium may not exceed an amount equal to 15 percent of the gross revenue accruing from the sale of tickets in that biennium;

(3) the establishment of a pooled bond fund, lottery prize reserve fund, unclaimed prize fund, and prize payment account; and

(4) the balance, after creation of a reserve sufficient to pay the amounts needed or estimated to be needed under Subdivisions (1) through (3), to be transferred to the foundation school ~~[unobligated portion of the general revenue]~~ fund, on or before the 15th day of each month.

SECTION 3.03. This article takes effect September 1, 1997.

SECTION 3.04. (a) Except as provided by Subsection (b) of this section, the change in law made to Section 466.015, Government Code, by this article applies to a ticket sold on or after the effective date of this article. A ticket sold before that date is governed by the law in effect when the ticket was sold, and that law is continued in effect for that purpose.

(b) In fiscal year 1998, the total amount of lottery prizes that the Texas Lottery Commission may award under Section 466.015(d), Government Code, as added by this article, may not exceed an amount equal to the gross revenue from the sale of lottery tickets multiplied by the percentage amount of lottery prizes awarded for all lottery games in fiscal year 1997 as determined by the comptroller minus an amount equal to 4-1/2 percent of gross lottery revenue for the 1998 fiscal year.

SECTION 3.05. The change in law made to Section 466.355, Government Code, by this article applies only to a transfer from the state lottery account made on or after the effective date of this article.

#### ARTICLE 4. EMERGENCY

SECTION 4.01. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Representative Sadler moved to adopt the conference committee report on **HB 4**.

The motion prevailed. (Uher recorded voting no)

The speaker stated that **HB 4** was passed subject to the provisions of Article III, Section 49a, of the Texas Constitution.

#### **HCR 324 - ADOPTED** (by Laney)

Representative Stiles moved to suspend all necessary rules to take up and consider at this time **HCR 324**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HCR 324**, Honoring James Nance on the occasion of his retirement from the Texas Legislative Council.

**HCR 324** was adopted without objection.

On motion of Representative Stiles, the names of all the members of the house were added to **HCR 324** as signers thereof.

### INTRODUCTION OF GUEST

The speaker introduced James Nance.

### MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

### HR 1306 - ADOPTED (by Stiles)

The speaker laid before the house the following privileged resolution:

#### HR 1306

BE IT RESOLVED by the House of Representatives of the State of Texas, 75th Legislature, Regular Session, 1997, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 360** to consider and take action on the following matters:

1. House Rule 13, Section 9(a)(4), is suspended to permit the committee to add new Sections 4.03 and 4.04 to the bill to read as follows:

SECTION 4.03. Section 411.002(c), Government Code, is amended to read as follows:

(c) The Department of Public Safety of the State of Texas is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and Subsections (a) and (b) expire September 1, 1999 [2005].

SECTION 4.04. The Department of Public Safety shall pay the costs incurred by the Sunset Advisory Commission in performing the review of the department under Section 411.002(c), Government Code, as amended by this Act. The Sunset Advisory Commission shall determine the amount of the costs, and the department shall pay the amount promptly on receipt of a statement from the commission showing the costs.

Explanation: This change is necessary to provide for an earlier sunset review of the Department of Public Safety and provide for the payment of the cost of that review.

2. House Rule 13, Section 9(a)(4), is suspended to permit the committee to add new Sections 4.08 and 4.09 to the bill and to add Subsections (d) and (e) to Section 6.01 of the bill to read as follows:

(a) Sections 4.08 and 4.09 are added to read as follows:

SECTION 4.08. Section 201.204, Transportation Code, is amended to read as follows:

Sec. 201.204. SUNSET PROVISION. The Texas Department of Transportation is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished September 1, 1999 [1997].

SECTION 4.09. Section 361.003, Transportation Code, is amended to read as follows:

Sec. 361.003. SUNSET PROVISION. The Texas Turnpike Authority is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the authority is abolished and this chapter expires September 1, 1999 [~~1997~~].

(b) Subsections (d) and (e) are added to Section 6.01 to read as follows:

(d) The section of this Act that amends Section 201.204, Transportation Code, takes effect only if the 75th Legislature, Regular Session, 1997, does not enact other legislation that becomes law and that amends Section 201.204, Government Code, to extend the sunset date of the Texas Department of Transportation.

(e) The section of this Act that amends Section 361.003, Transportation Code, takes effect only if the 75th Legislature, Regular Session, 1997, does not enact other legislation that becomes law and that amends Section 361.003, Government Code, to extend the sunset date of the Texas Turnpike Authority.

Explanation: This change is necessary to provide for the continuation of the Texas Department of Transportation and the Texas Turnpike Authority if the 75th Legislature, Regular Session, 1997, does not enact other legislation that becomes law that would continue those agencies.

**HR 1306** was adopted without objection.

**HR 1297 - ADOPTED**  
**(by Holzheuser)**

The speaker laid before the house the following privileged resolution:

**HR 1297**

BE IT RESOLVED by the House of Representatives of the State of Texas, 75th Legislature, Regular Session, 1997, That House Rule 13, Sections 9(a) and 9(c), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 1440** to consider and take action on the following specific matter:

House Rule 13, Sections 9(a)(1) and 9(c)(2), are suspended to permit the committee, in the definition of "qualifying lease," in Section 202.057(a)(6), Tax Code, as added by the bill, to strike "during the effective period of this bill" and substitute "on or after September 1, 1997,".

Explanation: The conference committee requests this suspension of limitations to clarify, without making any substantive change in the language adopted by either the house of representatives or the senate, that the words "effective period of this bill" mean the period of time "on or after September 1, 1997."

**HR 1297** was adopted without objection.

**HR 1302 - ADOPTED**  
**(by Hartnett)**

The speaker laid before the house the following privileged resolution:

**HR 1302**

BE IT RESOLVED by the House of Representatives of the State of Texas, 75th Legislature, Regular Session, 1997, That House Rule 13, Section 9(a), be

suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 1563** to consider and take action on the following specific matter:

House Rule 13, Sections 9(a)(1) and (3), are suspended to permit the committee to amend Section 75.551(b), Government Code, in SECTION 1 of the bill, to read as follows:

(b) A judge or justice assigned to an appellate court may not hear a civil case if a party to the case files a timely objection to the assignment of the judge or justice. Except as provided by Subsection (d):

(1) each party to the case is entitled to only one objection under this section for that case in the appellate court; and

(2) a party to an appeal may not in the same case object in an appellate court to the assignment of a judge or justice under Section 74.053(b) and under this subsection.

Explanation: This change is necessary to limit the number of objections that a party may make in a case.

**HR 1302** was adopted without objection.

**HR 1304 - ADOPTED**  
**(by R. Lewis)**

The speaker laid before the house the following privileged resolution:

**HR 1304**

BE IT RESOLVED by the House of Representatives of the State of Texas, 75th Legislature, Regular Session, 1997, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 1** to consider and take action on the following specific matters:

(1) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text in SECTION 4.07 of the bill to amended Section 15.001(6)(A), Water Code, to read as follows:

". including planning activities and work to obtain regulatory authority at the local, state, and federal level."

Explanation: This change is necessary to ensure that future water supplies crucial to the Rio Grande Valley will be made possible.

(2) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add text in SECTION 5.04 of the bill to amended Section 17.001(7), Water Code, to read as follows:

"(D) a channel storage reservoir located on an international boundary between Texas and Mexico that develops the water resources of Texas and the research, planning, and actions necessary to obtain regulatory authority at the local, state, and federal level".

Explanation: This change is necessary to ensure that future water supplies crucial to the Rio Grande Valley will be made possible.

(3) House Rule 13, Section 9(a)(1), is suspended to permit the committee in SECTION 2.18 of the bill to refer to applications "received" instead of applications "filed."

Explanation: This change is necessary to properly describe application procedures of the Texas Natural Resource Conservation Commission.

**HR 1304** was adopted without objection.

**HR 1307 - ADOPTED**  
**(by Cuellar)**

The speaker laid before the house the following privileged resolution:

**HR 1307**

BE IT RESOLVED by the House of Representatives of the State of Texas, 75th Legislature, Regular Session, 1997, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 1311** to consider and take action on the following matters:

1. House Rule 13, Sections 9(a)(1) and (3), are suspended to permit the committee to add new SECTIONS 2(a) and (b) of the bill to read as follows:  
SECTION 2. (a) This Act takes effect September 1, 1999.

(b) The Texas Higher Education Coordinating Board shall make grants under the Texas-Washington, D.C., Intern Scholarship Program beginning when the coordinating board determines sufficient funds are available to provide a reasonable number of grants, but not earlier than the 2000 spring semester.

Explanation: This change is necessary to provide that the Texas Higher Education Coordinating Board may not begin awarding scholarships before the 2000 spring semester and to change the effective date of the Act to September 1, 1999.

**HR 1307** was adopted without objection.

**HCR 329 - ADOPTED**  
**(by Carter)**

Representative Carter moved to suspend all necessary rules to take up and consider at this time **HCR 329**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HCR 329**

WHEREAS, **HB 2909** has been adopted by the house of representatives and the senate; and

WHEREAS, The bill contains a technical error that should be corrected; now, therefore, be it

RESOLVED, That the enrolling clerk of the house of representatives be hereby instructed to make the following corrections:

In SECTION 30 of the bill, in Section 415.038(a), Government Code, strike added Subdivision (3) and substitute a new Subdivision (3) to read as follows:

(3) other topics determined by the commission and the department to be necessary for the responsible use of firearms by officers.

**HCR 329** was adopted without objection.

**HCR 323 - ADOPTED**  
**(by Dukes)**

Representative Dukes moved to suspend all necessary rules to take up and consider at this time **HCR 323**.



The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HCR 323**

WHEREAS, **HB 723** has been adopted by the house of representatives and the senate; and

WHEREAS, The bill contains a technical error that should be corrected; now, therefore, be it

RESOLVED, That the enrolling clerk of the house of representatives be hereby instructed to correct **HB 723** in SECTION 1 of the bill, at the end of proposed Section 6.08(c)(6), Medical Liability and Insurance Improvement Act of Texas (Article 4590i, Vernon's Texas Civil Statutes), immediately after the semicolon by inserting "and".

**HCR 323** was adopted without objection.

**SB 1486 - REQUEST OF SENATE GRANTED  
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Edwards, the house granted the request of the senate for the appointment of a conference committee on **SB 1486**.

The speaker announced the appointment of the following conference committee, on the part of the house, on **SB 1486**: Siebert, chair, Alexander, Edwards, Hawley, and Hill.

**COMMITTEE MEETING ANNOUNCEMENT**

The following committee meeting was announced:

Public Health, 1:27 p.m. today, Desk 138, to consider **HR 1166**.

**HOUSE AT EASE**

At 1:27 p.m., the speaker announced that the house would stand at ease.

The speaker called the house to order at 4 p.m.

**LEAVES OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today because of important business in the district:

Gutierrez on motion of Solis.

The following member was granted leave of absence for the remainder of today to attend a funeral:

Flores on motion of Solis.

**HR 1315 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1315**, suspending the limitations on the conferees for **SB 385**.

**HR 1318 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1318**, suspending the limitations on the conferees for **HB 3207**.

**HB 298 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Madden submitted the following conference committee report on **HB 298**:

Austin, Texas, May 30, 1997

Honorable Bob Bullock  
President of the Senate

Honorable Pete Laney  
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 298** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Ellis	Madden
Barrientos	Danburg
Shapleigh	Denny
West	Gallego
On the part of the Senate	On the part of the House

**HB 298**, A bill to be entitled An Act relating to election dates, office hours for election purposes, and information concerning cost savings in the conduct of elections.

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

SECTION 1. Subchapter A, Chapter 31, Election Code, is amended by adding Section 31.008 to read as follows:

Sec. 31.008. COLLECTION OF INFORMATION: FORUM ON ELECTION COST SAVINGS. (a) The secretary of state shall collect and maintain information on the number of elections held in this state and the administrative costs associated with the elections.

(b) The secretary of state shall conduct an annual forum to allow election officials from political subdivisions to exchange ideas on the administration of elections, including issues related to cost savings and efficiency in the conduct of elections. The election officials shall be given the opportunity at the forum to make recommendations on proposed changes in the election laws.

SECTION 2. Section 31.122, Election Code, is amended to read as follows:

Sec. 31.122. Office Hours of Election Authority During Election Period.

(a) Except as provided by Section 31.123, each county clerk, city secretary, or secretary of the governing body of a political subdivision other than a county or city or the authority performing the duties of a secretary under this code shall keep that officer's office open for election duties for at least three hours each day, during regular office hours, on regular business days during the period:

(1) beginning not later than the 50th day before the date of each general election of the political subdivision or the third day after the date a special election is ordered by an authority of the political subdivision; and

(2) ending not earlier than the 40th day after election day.

(b) If the political subdivision is an independent school district, a regular

business day means a day on which the school district's main business office is regularly open for business.

SECTION 3. Section 41.001, Election Code, is amended by adding Subsection (c) to read as follows:

(c) A general election of officers of a city, school district, junior college district, or hospital district may not be held on the January or August uniform election date.

SECTION 4. Section 41.0052(a), Election Code, is amended to read as follows:

(a) The governing body of a political subdivision other than a county may, not later than December 31, 1997 [~~1993~~], change the date on which it holds its general election for officers to another authorized uniform election date. An election on the new date may not be held before 1998 [~~1994~~].

SECTION 5. Section 9.004(b), Local Government Code, is amended to read as follows:

(b) The ordinance ordering the election shall provide for the election to be held on the first authorized uniform election date prescribed by the Election Code or on the earlier of the date of the next municipal general election or presidential general election. The election date must allow [~~that allows~~] sufficient time to comply with other requirements of law and must occur [~~that occurs~~] on or after the 30th day after the date the ordinance is adopted.

SECTION 6. (a) Subchapter A, Chapter 41, Election Code, is amended by adding Section 41.0053 to read as follows:

Sec. 41.0053. ELECTIONS ON SPRING UNIFORM DATE IN CERTAIN POLITICAL SUBDIVISIONS. (a) This section applies only to:

(1) a city with a population of more than 450,000 in which all members of the city's governing body are elected at large;

(2) an independent school district or public junior college district with a service area that is primarily the same as that of a city described by Subdivision (1); and

(3) a metropolitan transit authority with a principal city described by Subdivision (1).

(b) A general or special election of officers of a political subdivision covered by this section shall be held on the spring uniform election date.

(b) Section 7(c), Chapter 429, Acts of the 70th Legislature, Regular Session, 1987, is amended to read as follows:

(c) The directors elected at the first election shall draw lots for three four-year terms and two two-year terms. Thereafter, all directors shall serve four-year terms, and all director's elections shall occur on the spring uniform [~~May general~~] election date of even-numbered years.

(c) The governing body of a political subdivision holding an election under Subsection (a) of this section shall adjust the terms of office to conform to the new election date. The governing body shall adjust the election schedule to conform to the new date as provided by Section 41.006, Election Code.

(d) This section prevails over another Act of the 75th Legislature, Regular Session, 1997, to the extent of a conflict.

SECTION 7. Section 41.003, Election Code, is repealed.

SECTION 8. (a) An election that is ordered before the effective date of this Act and that is described by Subdivision (3), (9), or (10), Section 41.001(b),

Election Code, as it existed immediately before the effective date of this Act, is subject to that prior law, and the prior law is continued in effect for that purpose.

(b) Notwithstanding an election date prescribed under a statute that expressly provides that the requirement of Section 41.001(a), Election Code, does not apply to the election, an election held under the statute shall be held on an authorized uniform election date as provided by Chapter 41, Election Code.

(c) The prohibition on using the August uniform election date under Section 41.001(c), Election Code, as added by this Act, does not apply to an election to be held on that date in 1997.

(d) Section 41.006, Election Code, applies to the change in election dates under this Act.

(e) If this Act conflicts with another Act of the 75th Legislature, Regular Session, 1997, the changes in law made by this Act prevail to the extent of the conflict regardless of the relative dates of enactment.

SECTION 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

### HB 298 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE DANBURG: The Uniform Elections Act, **HB 298**, is intended to encourage political subdivisions to hold joint elections to reduce taxpayer expense and to increase voter participation in the election process, correct?

REPRESENTATIVE MADDEN: That is absolutely correct, Ms. Danburg.

DANBURG: Isn't it true that certain fixed costs of conducting an election must be paid regardless of the ballot length or magnitude of voter turnout? When local governments hold separate elections, taxpayers pay the costs of separate staff, supplies, equipment, and other expenses. When local governments hold elections jointly, they divide the costs and save tax dollars, correct?

MADDEN: That is correct and that is the intent of the legislation—to save all our local taxpayers money that could be better used for schools and educating children or in the city and running the city's activities.

DANBURG: In pursuit of these goals, the bill requires the Secretary of State to collect information on the number of elections and the administrative costs of conducting elections. Centralized election data will make it easier for local governments to identify opportunities for holding joint elections. **HB 298** further requires the Secretary of State to conduct an annual election issues forum to allow local election officials to exchange ideas on decreasing election costs and holding joint elections, is that correct?

MADDEN: That is absolutely correct and that is the direction we have been taking with this bill all along.

DANBURG: To reduce the costs of conducting multiple elections, **HB 298** requires more local governments to hold elections on certain uniform election dates. This creates incentives for local governments to coordinate elections. This will also reduce the voter fatigue and confusion associated with multiple election dates and sites, right?

MADDEN: Yes, that is correct, and we are absolutely trying to get voter turnout up in those elections we do have. That is really the ultimate goal of this legislation.

DANBURG: Right, and it is our desire that the Secretary of State should inform all political subdivisions that conduct elections of the intent of this legislation, isn't that correct?

MADDEN: That is absolutely correct.

### REMARKS ORDERED PRINTED

Representative Danburg moved to print remarks by Representatives Danburg and Madden establishing legislative intent for **HB 298**.

The motion prevailed without objection.

Representative Madden moved to adopt the conference committee report on **HB 298**.

A record vote was requested.

The motion prevailed by (Record 620): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Galloway; Garcia; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Flores; Giddings; Gutierrez; Price; Serna.

**HR 1319 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1319**, suspending the limitations on the conferees for **SB 700**.

**HB 1200 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Cuellar submitted the following conference committee report on **HB 1200**:

Austin, Texas, May 30, 1997

Honorable Bob Bullock  
President of the Senate

Honorable Pete Laney  
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1200** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Brown	Cuellar
Armbrister	Junell
Lindsay	Keel
Nelson	Oakley
Whitmire	Pitts
On the part of the Senate	On the part of the House

**HB 1200**, A bill to be entitled An Act relating to the period of validity of and fees for a driver's license, learner's permit, or personal identification certificate.

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

SECTION 1. Section 521.101(f), Transportation Code, is amended to read as follows:

(f) A certificate expires on a date specified by the department, except that a certificate issued to a person 60 years of age or older does not expire.

SECTION 2. Section 521.271, Transportation Code, is amended to read as follows:

Sec. 521.271. LICENSE EXPIRATION. (a) Each original driver's license and provisional license expires as follows:

- (1) a driver's license expires on the first birthday of the license holder occurring after the sixth [~~fourth~~] anniversary of the date of the application;
- (2) a provisional license expires on the earlier of:
  - (A) the 18th birthday of the license holder; or
  - (B) the first birthday of the license holder occurring after the date of the application;
- (3) an instruction permit expires on the first birthday of the license holder occurring after the date of the application; and
- (4) an occupational license expires on the first anniversary of the court order granting the license.

(b) A driver's license that is renewed expires on the sixth [~~fourth~~] anniversary of the expiration date before renewal.

SECTION 3. Section 521.421, Transportation Code, is amended by amending Subsections (a) and (b) and adding Subsection (f) to read as follows:

(a) The fee for issuance or renewal of a license not otherwise provided for by this section is \$24 [~~\$16~~].

(b) The fee for renewal of a Class M license is \$32 [~~\$21~~].

(f) If a Class A, B, or C driver's license includes an authorization to operate a motorcycle or moped, the fee for the driver's license is increased by \$8.

SECTION 4. Section 521.422, Transportation Code, is amended to read as follows:

Sec. 521.422. PERSONAL IDENTIFICATION CERTIFICATE FEE. The fee for a personal identification certificate is:

(1) \$15 [~~\$10~~] for a person under 60 [~~65~~] years of age; and

(2) \$5 for a person 60 [~~65~~] years of age or older.

SECTION 5. Section 522.029, Transportation Code, is amended by amending Subsection (a) and adding Subsection (f) to read as follows:

(a) The fee for a commercial driver's license or commercial driver learner's permit issued by the department is \$60 [~~\$40~~].

(f) If a commercial driver's license or commercial driver learner's permit includes an authorization to operate a motorcycle or moped, the fee for the driver's license or permit is increased by \$8.

SECTION 6. Sections 522.051(a)-(d), Transportation Code, are amended to read as follows:

(a) An original commercial driver's license or commercial driver learner's permit expires six [~~four~~] years after the applicant's next birthday.

(b) A commercial driver's license or commercial driver learner's permit issued to a person holding a Texas Class A, B, C, or M license that would expire one year or more after the date of issuance of the commercial driver's license or commercial driver learner's permit expires six [~~four~~] years after the applicant's next birthday.

(c) A commercial driver's license or commercial driver learner's permit issued to a person holding a Texas Class A, B, C, or M license that would expire less than one year after the date of issuance of the commercial driver's license or commercial driver learner's permit or that has been expired for less than one year expires six [~~four~~] years after the expiration date shown on the Class A, B, C, or M license.

(d) A commercial driver's license or commercial driver learner's permit issued to a person holding a Texas Class A, B, C, or M license that has been expired for at least one year but not more than two years expires six [~~four~~] years after the applicant's last birthday.

SECTION 7. Sections 522.052(b) and (c), Transportation Code, are amended to read as follows:

(b) A renewal of a commercial driver's license that has been expired for less than one year expires six [~~four~~] years after the expiration date shown on the commercial driver's license.

(c) A renewal of a commercial driver's license that has been expired for



at least one year but not more than two years expires six [~~four~~] years after the applicant's last birthday.

SECTION 8. The Department of Public Safety by rule may provide for the staggered expiration of licenses, permits, and certificates under Chapters 521 and 522, Transportation Code, so that a proportionate number of licenses, permits, and certificates expire each year. The fee for a license, permit, or certificate issued for a period other than the period provided by those chapters shall be prorated accordingly.

SECTION 9. The change in law made by this Act applies only to a license, permit, or certificate issued or renewed on or after the effective date of this Act.

SECTION 10. This Act takes effect September 1, 1997.

SECTION 11. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Representative Cuellar moved to adopt the conference committee report on **HB 1200**.

The motion prevailed. (Kubiak recorded voting no)

**HB 2086 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Palmer submitted the following conference committee report on **HB 2086**:

Austin, Texas, May 30, 1997

Honorable Bob Bullock  
President of the Senate

Honorable Pete Laney  
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2086** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Lucio	Palmer
Armbrister	D. Jones
Cain	Pickett
Harris	Tillery
Madla	Yarbrough
On the part of the Senate	On the part of the House

**HB 2086**, A bill to be entitled An Act relating to the regulation and operation of bingo.

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

SECTION 1. Section 2, Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes), is amended by adding Subdivisions (26) through (29) to read as follows:

(26) "Instant bingo," "pull-tab bingo," and "break-open bingo" mean a form of bingo played using tickets with perforated break-open tabs, made of paper or paper products, the face of which is covered or otherwise hidden from view to conceal numbers, letters, or symbols, some of which have been designated in advance as prize winners.

(27) "Licensed authorized organization" means an authorized organization that holds a license to conduct bingo games as provided by this Act and the rules adopted by the commission.

(28) "Primary business office" means the location at which all records relating to the primary purpose of a licensed authorized organization are maintained in the ordinary course of business.

(29) "Location," "place," or "premises" means the area subject to the direct control of, and to actual use by, a licensed authorized organization or group of licensed authorized organizations for the purpose of conducting a game of bingo.

SECTION 2. Subsections (e), (k), (p), (q), and (v), Section 11, Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes), are amended to read as follows:

(e) A prize may not exceed the sum or value of \$750 [~~\$500~~] in any single game of bingo.

(k) A game of chance other than bingo or a raffle conducted under the Charitable Raffle Enabling Act (Article 179f, Revised Statutes, as added by Chapter 957, Acts of the 71st Legislature, Regular Session, 1989) may not be conducted or allowed during an occasion when bingo is played. A person authorized to conduct a raffle under this section must be a bona fide member of a licensed authorized organization as described in Subsection (g) of this section. The commission shall adopt rules for the implementation of this subsection. This subsection does not prohibit the exhibition and play of an amusement machine that is not a gambling device as defined by Section 47.01, Penal Code.

(p) No one other than a licensed authorized organization or the commission may advertise [~~or promote~~] bingo. A licensed authorized organization or the commission may [~~not~~] include in an advertisement or promotion the amount of a prize or series of prizes offered at a bingo occasion.

(q) A licensed authorized organization or other person may not award or offer to award a door prize having a value of more than \$250 [~~or other prize to persons present at a bingo occasion or participating in a bingo occasion in addition to the prizes awarded for winning the individual bingo games~~].

(v) A person may not use a card-minding device:

(1) to generate or determine the random letters, numbers, or other symbols used in playing the bingo card played with the device's assistance;

(2) as a receptacle for the deposit of tokens or money, including coins or paper currency, in payment for playing the bingo card played with the device's assistance; or

(3) as a dispenser for the payment of a bingo prize, including coins, paper currency, or any thing of value for the bingo card played with the device's assistance. No more than 40 [~~30~~] percent of the individuals attending a [~~gross bingo game sales at each~~] bingo occasion, based on the average of two

previously submitted quarterly reports, may use ~~[can be on]~~ electronic or mechanical card-minding devices. This provision does not include[-] pull-tabs, instant bingo tickets, or break-open bingo games.

SECTION 3. Section 12, Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes), is amended by adding Subsection (g) to read as follows:

(g) For purposes of Subsection (a)(1) of this section:

(1) a copy of the Internal Revenue Service letter that grants approval of an organization's Section 501(c) exemption is adequate evidence of the validity of the organization's tax exempt status; and

(2) a letter of good standing from a parent organization that holds a Section 501(c) exemption for both the parent organization and its affiliate is adequate evidence of the affiliate organization's Section 501(c) exemption.

SECTION 4. Section 13, Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes), is amended by amending Subsections (f), (j), and (q) and adding Subsections (p), (v), and (w) to read as follows:

(f) A person who leases premises on which bingo is conducted is ~~[not]~~ required to be a licensed commercial lessor if [unless] the person leases directly to a licensed authorized organization. An authorized organization that holds a commercial license to lease premises on which bingo is conducted must be licensed to conduct bingo at the same premises.

(j) A license may not be transferred by a licensee[-] except as provided by this subsection.

(1) A commercial license to lease bingo premises may be transferred to another person with the prior approval of the commission.

(2) A [that a] licensed commercial lessor may transfer a license held by the licensee to a corporation formed by the licensee or from one corporation owned by the licensee to another corporation owned by the licensee.

(3) Subject to Subdivisions (4) and (5) of this subsection, if an individual who holds a commercial license to lease bingo premises dies, or becomes incapacitated as determined by a court of this state, the individual's license is part of the individual's estate and is subject to the laws governing the disposition and control of property under the circumstances. Under such circumstances, the license is not considered to have been transferred, subject to compliance with Subdivision (6) of this subsection. The individual's estate may take any action with respect to the individual's license that the individual could have taken while the individual was alive.

(4) Unless an injunction is issued under this section, a licensed authorized organization that conducts bingo lawfully at any location that is the subject of a license to which Subdivision (3) of this subsection applies may continue conducting bingo at the location following the death or incapacity of the individual license holder.

(5) On a showing of good cause by the commission, a district court having jurisdiction in the county for which a commercial lessor license was issued may temporarily or permanently enjoin the conduct of bingo at any location that is the subject of a license to which Subdivision (3) of this subsection applies. For purposes of this section, "good cause" means any cause that would be sufficient for the commission to obtain a suspension under Section 16(e) of this Act.

(6) The estate or guardian of an individual to whom Subdivision (3) of this subsection applies shall notify the commission within one year of the date the individual dies or is determined to be incapacitated by a court of this state. The estate or guardian and the heir or heirs or other appropriate person under the circumstances shall promptly take all necessary steps to complete a transfer of the license to the heir or heirs or other appropriate person under the circumstances. A transfer of a license under this subsection requires the prior approval of the commission. The commission shall approve the transfer if the person to whom the license will be transferred otherwise meets the requirements for the license.

(p)(1) Notwithstanding Subsection (n) of this section, the commission may not issue a commercial license to lease a bingo premises to any person unless the commission receives evidence that the commission considers adequate that any funds used by the person seeking the license to obtain the premises, provide the premises with furniture, fixtures, or equipment, renovate the premises, or provide utilities to the premises are:

(A) the person's own funds; or

(B) the funds of another person, including the proceeds of a loan, obtained in an arms-length transaction that was commercially reasonable under the circumstances and the funds were not obtained under an expectation or obligation that the person from whom the funds were obtained would directly participate in, or have any legal interest in, any rents obtained under the license or revenues or profits from the conduct of bingo on the premises.

(2) This subsection does not prohibit a group of licensed authorized organizations from combining the organizations' funds or combining or jointly obtaining funds described by Subsection (p)(1)(B) of this section.

(q) The following persons are not eligible for a commercial license, or to renew a commercial license, to lease bingo premises to a licensed authorized organization:

(1) a person convicted of a felony, criminal fraud, gambling or gambling-related offense, or crime of moral turpitude, if less than 10 years have elapsed since the termination of any sentence, parole, mandatory supervision, or probation served for the offense;

(2) a public officer who receives any consideration, direct or indirect, as owner or lessor of premises offered for the purpose of conducting bingo;

(3) a person who extends credit to, loans money to, or pays or provides for the payment of license fees for an authorized organization;

(4) a distributor or manufacturer; ~~or~~

(5) a person, firm, or corporation in which a person covered by Subdivision (1), (2), (3), or (4) of this subsection or a person married or related in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code [Article 5996h, Revised Statutes], to one of those persons has greater than a 10 percent proprietary, equitable, or credit interest or in which one of those persons is active or employed;

(6) a foreign corporation or other legal entity, an individual who is not a resident of this state, or a corporation or other legal entity owned or controlled by a foreign corporation or individual who is not a resident of this state; or

(7) a corporation or other legal entity whose shares are publicly traded

or a corporation or other legal entity that is owned or controlled by a corporation whose shares are publicly traded.

(v)(1) Except as provided in this subsection, no more than one bingo location may exist under a common roof or over a common foundation.

(2) This subsection does not apply where more than one bingo location lawfully exists under a common roof or over a common foundation pursuant to a license application filed with the commission on or before May 23, 1997, and the commission shall renew any license at such location that is otherwise in compliance with this Act.

(3) Subdivision (2) of this subsection does not apply if one or more of the bingo locations under a common roof or over a common foundation ceases to lawfully exist.

(w)(1) Subsections (q)(6) and (7) of this section do not apply to a license in effect as of May 1, 1997, if bingo was being lawfully conducted on the licensed premises as of that date.

(2) This subsection does not apply to a license that is:

(A) moved to a location in this state that is different from the location for which the license was in effect as of May 1, 1997;

(B) expanded as to square footage or seating capacity beyond the square footage and seating capacity in use as of May 1, 1997; or

(C) if ownership of the licensee changes, or the license is transferred, after May 1, 1997.

(3) The commission may make any investigation of, and require any information from, a person described by Subsection (q)(6) or (7) of this section or any officer, director, agent, or employee thereof, that the commission is authorized to make or require of an applicant for or holder of a commercial license to lease premises on which bingo is conducted, if the person owns or controls a license described by Subdivision (1) of this subsection. If such person, or an officer, director, agent, or employee in Texas of such person, would be disqualified under this Act from holding a commercial license to lease premises on which bingo is conducted if the person, officer, director, agent, or employee were the licensee or an applicant for such license, any entity owned or controlled by such person is disqualified from holding such license. The commission may require the individual or legal entity that is the subject of a substantiated investigation under this subsection to pay the actual cost of the investigation.

(4) This subsection expires January 1, 2001.

SECTION 5. Section 13e, Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes), is amended by adding Subsections (i)-(k) to read as follows:

(i) A system service provider may use bar codes on bingo paper as a means of providing accurate tracking, registering, and accounting.

(j) A system service provider may purchase goods or services from a licensed manufacturer.

(k) The commission shall include a system service provider as a member of a bingo advisory committee appointed under Section 43 of this Act.

SECTION 6. Section 14, Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes), is amended by amending Subsection (b) and adding Subsections (d) and (e) to read as follows:

(b) A license issued under this Act may be amended on application to the commission, and on payment of a \$10 [\$25] fee, if the subject matter of the proposed amendment could lawfully and properly have been included in the original license. A licensee may not change the location [~~or times~~] of its bingo games until it has surrendered its original license and received an amended license from the commission.

(d) A licensee shall notify the commission before changing the time or date of a bingo game. A licensee may provide notice to the commission regarding the change of the time or date of a bingo game by use of telephone or facsimile.

(e) The commission by rule shall provide a method by which a licensee may pay the amendment fee required by this section.

SECTION 7. Section 16, Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 16. CONTROL AND SUPERVISION; SUSPENSION OF LICENSES; INSPECTION OF PREMISES. (a) The commission shall administer this Act. The commission has broad authority and shall exercise strict control and close supervision over all games of bingo conducted in this state to the end that the games are fairly conducted and the proceeds derived from the games are used for the purposes authorized in this Act. The commission's authority under this Act is executed through a division established by the [~~administrator of the~~] commission to administer this Act. The commission [~~administrator~~] shall employ a director of bingo operations to administer the division under the direction of the commission [~~and administrator~~]. The commission may adopt rules for the enforcement and administration of this Act.

(b) The commission shall provide to any person on request a printed copy of this Act and any rules applicable to the enforcement of this Act. The commission may impose a reasonable charge for a copy of an item provided under this subsection.

(c) [~~(d)~~] The commission by rule shall provide procedures for the approval of bingo cards. A licensee may not use or distribute a bingo card unless it has been approved by the commission. The commission may set the price or adopt one or more schedules of prices at which bingo cards may be sold or otherwise furnished by a licensed authorized organization. A licensed authorized organization may not sell or otherwise furnish a bingo card at a price other than a price authorized by the commission under this subsection or by a schedule adopted under this subsection. The commission may establish procedures requiring a licensed authorized organization to notify the commission of the price or price schedule for bingo cards the organization will use for one or more reporting periods.

(d) [~~(e)~~] After a hearing, the commission may suspend or revoke any license issued under this Act for failure to comply with this Act or a rule adopted by the commission under this Act, or for any reason that would allow or require the commission to refuse to issue or renew a license of the same class.

(e) The commission may temporarily [~~summarily~~] suspend a license issued under this Act for failure to comply with this Act or a rule adopted by the

commission under this Act. Before temporarily suspending a license issued under this Act, the director of bingo operations must follow any prehearing rules adopted by [if] the commission to determine if [~~determines that~~] the licensee's continued operation may constitute an immediate threat to the health, safety, morals, or welfare of the public. Chapter 2001, Government Code, [The Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)] does not apply to the director of bingo operations or to the commission in the enforcement and administration of a temporary [~~summary~~] suspension under this section.

(f) A proceeding to temporarily [~~summary~~] suspend a license issued under this Act is initiated by the director of bingo operations [~~commission~~] by serving notice to the licensee informing the licensee of the rules adopted by the commission regarding the prehearing temporary suspension process and [it] of the licensee's right to a hearing before the commission. The notice must be personally served on an officer, operator, or agent of the licensee or sent by certified or registered mail, return receipt requested, to the licensee's mailing address as it appears on the commission's records. The notice must state the alleged violations that constitute grounds for temporary [~~summary~~] suspension.

(g) If a notice of temporary [~~summary~~] suspension is served on a licensee, the director of bingo operations [~~commission~~] shall simultaneously serve notice of a hearing, to be held within 10 days after the date the notice is served, at which the licensee shall show cause why the license should not be temporarily [~~summary~~] suspended on the 10th day after the date the notice is served. A final hearing on the suspension or revocation of the license shall be held, if requested by the licensee, within 30 days after the date the commission receives written notice of the request. A final hearing on suspension or revocation is governed by the same rules as a hearing on any other suspension or revocation under this Act.

(h) The commission may employ officers or investigators as the commission considers necessary to administer this Act.

(i) The commission or the commission's officers or agents and state, city, or county peace officers may enter and inspect the contents of premises where a game of bingo is being conducted or where it is intended that a game is to be conducted, or where any equipment used or intended for use in the conduct of a game is found.

(j) The commission by rule may establish the number and type of bingo games that may be played during an occasion.

SECTION 8. Section 19a, Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes), is amended by amending Subsection (k) and by adding Subsection (l) to read as follows:

(k) Before the end of each quarter, each licensed authorized organization shall disburse for charitable purposes an amount not less than 35 percent of the organization's adjusted gross receipts from the last preceding quarter, less the amount of authorized expenses not to exceed six percent of the gross receipts. For purposes of this subsection, adjusted gross receipts means gross receipts [~~plus any consideration received from the rental of premises for bingo by the authorized organization,~~] less the amount of cost of goods sold by an organization and prizes paid in the preceding quarter. For purposes of this



subsection, cost of goods sold by an organization is the cost of bingo paper, instant bingo tickets, or pull-tab bingo games purchased by the organization. If a licensed authorized organization fails to meet the requirements of this subsection for a quarter, the commission in applying appropriate sanctions may consider whether, taking into account the amount required to be distributed during that quarter and the three preceding quarters and the charitable distributions for each of those quarters, the organization has distributed a total amount sufficient to have met the 35 percent requirement for that quarter and the three preceding quarters combined.

(l) A licensed authorized organization may obtain only one commercial lessor license. The license to lease bingo premises may only be issued for the same premise, place, or location where the authorized organization is licensed to conduct its bingo games.

SECTION 9. Section 20, Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 20. REPORTING AND DUE DATE OF TAXES AND FEES.

(a) The taxes and fees authorized or imposed by this Act are due and payable by the licensee or any person conducting bingo games without a license to the commission [~~state treasurer~~] quarterly on or before the 15th day of the month succeeding each calendar quarter. The report must be filed under oath on forms prescribed by the commission.

(b) The commission shall adopt rules regarding payment of taxes and fees.

SECTION 10. Section 39(b), Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) Any person conducting, promoting, or administering a game commits a felony of the third degree unless the person is conducting, promoting, or administering a game:

(1) in accordance with a valid license issued under this Act;

(2) within the confines of a home for purposes of amusement or recreation when:

(A) no player or other person furnishes anything of more than nominal value for the opportunity to participate;

(B) participation in the game does not exceed 15 players; and

(C) the prizes awarded or to be awarded are nominal;

(3) on behalf of an organization of persons 60 years of age or over, a senior citizens' association, a senior citizens' community center program operated or funded by a governmental entity, ~~or~~ the patients in a hospital or nursing home or residents of a retirement home, or the patients in a Veterans Administration medical center or a military hospital solely for the purpose of amusement and recreation of its members, residents, or patients, when:

(A) no player or other person furnishes anything of more than nominal value for the opportunity to participate; and

(B) the prizes awarded or to be awarded are nominal; or

(4) on behalf of a business conducting the game for promotional or advertising purposes if:

(A) the game is conducted by or through a newspaper or a radio or television station;

(B) participation in the game is open to the general public and is not limited to customers of the business;

(C) playing materials are furnished without charge to any person on request; and

(D) no player is required to furnish anything of value for the opportunity to participate.

SECTION 11. The Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes) is amended by adding Sections 44, 45, and 46 to read as follows:

Sec. 44. TRAINING PROGRAM. (a) The person designated by the licensed authorized organization under Section 12(a)(7) of this Act shall complete eight hours of training as provided by the rules of the commission.

(b) A program approved by the commission must include training on:

(1) conducting a bingo game;

(2) administering and operating a bingo game; and

(3) promoting a bingo game.

(c) The commission by rule shall establish:

(1) the content of training courses under this section;

(2) information concerning training to be reported to the commission;

and

(3) other training program requirements that the commission determines to be necessary to promote the fair conduct of bingo games and compliance with this Act.

Sec. 45. APPLICATION FORMS. The commission may not require a person who has held a license for five or more years to complete an application for the renewal of the license that is more than two pages in length.

Sec. 46. PAPERWORK REDUCTION. The commission may not require a person who has held a license for five or more years to complete an application for the renewal of the license that is more than two pages in length.

SECTION 12. (a) Except as provided by Subsection (b) of this section, this Act applies to the operation of a bingo game, the award of prizes, the disbursement of funds for a charitable purpose, or other action taken on or after October 1, 1997. The law in effect before October 1, 1997, is continued in effect for the purposes of the calculation and distribution of funds and the operation of a bingo game by a licensed authorized organization before October 1, 1997.

(b) Not later than July 1, 1997, the Texas Lottery Commission shall adopt rules under Section 19a, Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes), as amended by this Act, relating to the operation of bingo by bingo license holders and the distribution of proceeds for charitable purposes.

SECTION 13. The Texas Legislative Council shall prepare a nonsubstantive revision of the Bingo Enabling Act (Article 179d, Vernon's Texas Civil Statutes) for consideration by the 76th Legislature at its regular session in 1999.

SECTION 14. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Representative Palmer moved to adopt the conference committee report on **HB 2086**.

A record vote was requested.

The motion prevailed by (Record 621): 131 Yeas, 4 Nays, 2 Present, not voting.

Yeas -- Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Davila; Davis; Delisi; Denny; Driver; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Gallego; Galloway; Garcia; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Haggerty; Hamric; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Hunter; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; Krusee; Kubiak; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Oakley; Oliveira; Olivo; Palmer; Pickett; Pitts; Place; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Rhodes; Roman; Sadler; Seaman; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Nays -- Hartnett; Howard; Hupp; King.

Present, not voting -- Mr. Speaker(C); Kuempel.

Absent, Excused -- Flores; Giddings; Gutierrez; Price; Serna.

Absent -- Danburg; Dukes; Horn; Nixon; Patterson; Reyna, E.; Wilson.

### **HB 2394 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Delisi submitted the following conference committee report on **HB 2394**:

Austin, Texas, May 30, 1997

Honorable Bob Bullock  
President of the Senate

Honorable Pete Laney  
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2394** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Fraser  
Duncan  
Cain

Delisi  
Rangel  
Cuellar  
Dunnam

On the part of the Senate

On the part of the House

**HB 2394**, A bill to be entitled An Act relating to course fees charged for certain courses by public junior college districts.

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

SECTION 1. Section 54.203, Education Code, is amended by adding Subsection (g) to read as follows:

(g) The governing board of a junior college district may provide that the exemptions provided by Subsections (a) and (b) do not apply to a course fee or training fee charged a student by the junior college district to cover the flight time costs associated with a course in aircraft flight training, to the extent those costs are incurred by a student:

(1) who does not have a private pilot rating; or

(2) who has a private pilot rating but is not actively seeking to fulfill the requirements of the Federal Aviation Administration for an additional certification or rating.

SECTION 2. This Act applies beginning with fees charged by a public junior college district for the 1997 fall semester.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Representative Delisi moved to adopt the conference committee report on **HB 2394**.

The motion prevailed.

**HB 318 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Cuellar submitted the following conference committee report on **HB 318**:

Austin, Texas, May 30, 1997

Honorable Bob Bullock  
President of the Senate

Honorable Pete Laney  
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 318** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Bivins

Cuellar

Haywood

Sadler

Ratliff

Rhodes

Sibley

Krusee

On the part of the Senate

On the part of the House

**HB 318**, A bill to be entitled An Act relating to public school choice.

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

SECTION 1. Subchapter D, Chapter 12, Education Code, is amended by adding Section 12.1011 to read as follows:

Sec. 12.1011. PUBLIC EDUCATION GRANT CHARTERS. (a) In addition to the other charters authorized under this subchapter, in accordance with this subchapter the State Board of Education may grant:

(1) not more than 100 charters for open-enrollment charter schools that adopt an express policy providing for the admission of students eligible for a public education grant under Subchapter G, Chapter 29; and

(2) additional charters for open-enrollment charter schools for which at least 75 percent of the prospective student population, as specified in the proposed charter, will be students who have dropped out of school or are at risk of dropping out of school as defined by Section 29.081.

(b) An open-enrollment charter school granted a charter under this section may serve students who are not eligible for a public education grant under Subchapter G, Chapter 29, but a school granted a charter under Subsection (a)(2) must maintain, as a condition of its charter, the required percentage of students.

SECTION 2. Sections 29.202 and 29.203, Education Code, are amended to read as follows:

Sec. 29.202. ELIGIBILITY. (a) A student is eligible to receive a public education grant or to attend another public school in the district in which the student resides under this subchapter if the student is assigned to attend a public school campus:

(1) at which 50 percent or more of the students did not perform satisfactorily on an assessment instrument administered under Section 39.023(a) or (b) in any two of the [in the] preceding three years; or

(2) that was, at any time in the preceding three years, identified as low-performing by the commissioner under Subchapter D, Chapter 39.

(b) After a student has used a public education grant to attend a school in a district other than the district in which the student resides:

(1) the student does not become ineligible for the grant if the school on which the student's initial eligibility is based no longer meets the criteria under Subsection (a); and

(2) the student becomes ineligible for the grant if the student is assigned to attend a school that does not meet the criteria under Subsection (a).

Sec. 29.203. FINANCING. (a) A student [eligible under Section 25.001 to attend school in a school district but] who under this subchapter uses a public education grant to attend [attends] a public school in a school [another] district other than the district in which the student resides is included in the average daily attendance of the district in which the student [resides. The district in which the student] attends school [shall report the student's attendance to the district in which the student resides in accordance with rules adopted by the commissioner].

(b) A school district is entitled to the allotment provided by Section 42.157 for each eligible student using a public education grant. If the district has a wealth per student greater than the guaranteed wealth level but less than the

equalized wealth level, a school district is entitled under rules adopted by the commissioner to additional state aid in an amount equal to the difference between the cost to the district of providing services to a student using a public education grant and the sum of the state aid received because of the allotment under Section 42.157 and money from the available school fund attributable to the student.

(c) A school district is entitled to additional facilities assistance under Section 42.4101 if the district agrees to:

(1) accept a number of students using public education grants that is at least one percent of the district's average daily attendance for the preceding school year; and

(2) provide services to each student until the student either voluntarily decides to attend a school in a different district or graduates from high school.

~~(d) [A student's public education grant is the total state and local funding per student for the school district in which the student resides. Total funding from state and local sources includes special allotments under Subchapter C, Chapter 42, but does not include small district, sparsity, and cost of education adjustments and allotments for technology and transportation. A student's public education grant is the entitlement of the student, under the supervision of the student's parent, guardian, or custodian, is not an entitlement of any school district, and is paid to a school district solely as a means of administrative convenience.~~

~~(e)~~ A school district chosen by a student's parent under Section 29.201 is entitled to accept or reject the application for the student to attend school in that district but may not use criteria that discriminate on the basis of a student's race, ethnicity, academic achievement, athletic abilities, language proficiency, sex, or socioeconomic status. A school district that has more acceptable applicants for attendance under this subchapter than available positions must give priority to students at risk of dropping out of school as defined by Section 29.081 and must fill the available positions by lottery. However, to achieve continuity in education, a school district may give preference over at-risk students to enrolled students and to the siblings of enrolled students residing in the same household or other children residing in the same household as enrolled students for the convenience of parents, guardians, or custodians of those children.

~~(e) [(d)] A school district chosen by a student's parent under Section 29.201 may not charge the student tuition [in addition to the public education grant or charge tuition that is greater than the district's average expenditure per student. The school district in which the student resides is entitled to the remainder, if any, of the student's public education grant funds].~~

~~(f) [(e)] The school district in which a student resides shall provide each student attending a school in another district under this subchapter transportation free of charge to and from the school the student would otherwise attend.~~

(g) In this section:

(1) "Equalized wealth level" has the meaning assigned by Section 41.001.

(2) "Guaranteed wealth level" means a wealth per student equal to the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort, as provided by Section 42.302, multiplied by 10,000.

(3) "Wealth per student" has the meaning assigned by Section 41.001.

SECTION 3. Subchapter G, Chapter 29, Education Code, is amended by adding Section 29.204 to read as follows:

Sec. 29.204. NOTIFICATION. (a) Not later than January 1 of each year the commissioner shall, based on the most recent information available, provide notice to each school district in which a campus described by Section 29.202 is located that:

(1) identifies each campus in the district that meets the description in Section 29.202; and

(2) informs the district that the district must comply with Subsection (b).

(b) Not later than February 1 of each year, a school district shall notify the parent of each student in the district assigned to attend a campus described by Section 29.202 that the student is eligible for a public education grant. The notice must contain a clear, concise explanation of the public education grant program and of the manner in which the parent may obtain further information about the program.

SECTION 4. Subchapter G, Chapter 29, Education Code, is amended by adding Section 29.205 to read as follows:

Sec. 29.205. CONTRACT AUTHORITY. The board of trustees of a school district may contract under Section 11.157 for the provision of educational services to a district student eligible to receive a public education grant under Section 29.202.

SECTION 5. Subchapter C, Chapter 42, Education Code, is amended by adding Section 42.157 to read as follows:

Sec. 42.157. PUBLIC EDUCATION GRANT ALLOTMENT. (a) Except as provided by Subsection (b), for each student in average daily attendance who is using a public education grant under Subchapter G, Chapter 29, to attend school in a district other than the district in which the student resides, the district in which the student attends school is entitled to an annual allotment equal to the adjusted basic allotment multiplied by a weight of 0.1.

(b) The total number of allotments under this section to which a district is entitled may not exceed the number by which the number of students using public education grants to attend school in the district exceeds the number of students who reside in the district and use public education grants to attend school in another district.

SECTION 6. Subchapter H, Chapter 42, Education Code, is amended by adding Section 42.4101 to read as follows:

Sec. 42.4101. ADDITIONAL ASSISTANCE FOR DISTRICTS WITH STUDENTS USING PUBLIC EDUCATION GRANTS. (a) A district is entitled to additional assistance under this section as provided by Section 29.203(c).

(b) The amount of additional assistance under this section is computed by subtracting the number of students residing in the district and using public education grants to attend school in another district for the year in which the assistance is granted from the number of students using public education grants to attend school in the district for that year and multiplying the difference by \$266.



(c) If a district to which this section applies is entitled to the maximum amount of assistance under Section 42.406, the maximum is increased by the amount of additional assistance to which the district is entitled under this section.

SECTION 7. This Act applies beginning with the 1997-1998 school year.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Representative Cuellar moved to adopt the conference committee report on **HB 318**.

A record vote was requested.

The motion prevailed by (Record 622): 98 Yeas, 42 Nays, 1 Present, not voting.

Yeas -- Alexander; Allen; Averitt; Bonnen; Brimer; Carter; Chisum; Christian; Clark; Cook; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Delisi; Denny; Driver; Eiland; Elkins; Finnell; Galloway; Glaze; Goodman; Goolsby; Gray; Grusendorf; Haggerty; Hamric; Hartnett; Heflin; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Junell; Kamel; Keel; Keffer; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Madden; Marchant; McCall; McReynolds; Merritt; Moffat; Mowery; Nixon; Oakley; Oliveira; Palmer; Patterson; Pickett; Pitts; Place; Rabuck; Ramsay; Reyna, E.; Rhodes; Roman; Seaman; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; Telford; Turner, B.; Uher; Van de Putte; Walker; West; Williams; Williamson; Wilson; Wohlgemuth; Wolens; Woolley.

Nays -- Alvarado; Bailey; Berlanga; Bosse; Burnam; Chavez; Coleman; Danburg; Davila; Davis; Dukes; Dunnam; Dutton; Ehrhardt; Farrar; Gallego; Garcia; Greenberg; Hawley; Hernandez; Hirschi; Hochberg; Hodge; Jones, J.; King; Longoria; Luna; Maxey; McClendon; Moreno; Naishtat; Olivo; Puente; Rangel; Raymond; Reyna, A.; Sadler; Thompson; Tillery; Torres; Wise; Yarbrough.

Present, not voting -- Mr. Speaker(C).

Absent, Excused -- Flores; Giddings; Gutierrez; Price; Serna.

Absent -- Edwards; Turner, S.; Zbranek.

### STATEMENT OF VOTE

I was shown voting no on Record No. 622. I intended to vote yes.

Berlanga

**HB 1028 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Krusee submitted the following conference committee report on **HB 1028**:

Austin, Texas, May 27, 1997

Honorable Bob Bullock  
President of the Senate

Honorable Pete Laney  
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1028** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Barrientos	Hamric
Cain	Jackson
Lindsay	Krusee
Ogden	Mowery
Wentworth	B. Turner
On the part of the Senate	On the part of the House

**HB 1028**, A bill to be entitled An Act relating to strategic partnership agreements between certain local governments.

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

SECTION 1. Section 43.0751(m), Local Government Code, is amended to read as follows:

(m) A municipality that may annex a district for limited purposes to implement a strategic partnership agreement under this section shall not annex for full purposes any territory within a district created pursuant to a consent agreement with that municipality executed before September 15 [~~August 27~~], 1979. The prohibition on annexation established by this subsection shall expire on September 1, 1999 [~~1997~~], or on the date on or before which the municipality and any district may have separately agreed that annexation would not take place whichever is later.

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

Representative Maxey raised a point of order against further consideration of the conference committee report on **HB 1028** under Rule 8, Section 10(b) of the House Rules on the grounds that the bill employs an artificial device that limits the application of the bill to specific political subdivisions.

The speaker sustained the point of order, speaking as follows:

Representative Maxey raises a point of order against further consideration of **HB 1028** under Rule 8, Section 10(b), House Rules, in that the bill contains an artificial classification scheme that limits its application to specific political subdivisions in lieu of identifying those subdivisions by name.

**HB 1028** as engrossed extends an existing two-year moratorium on certain annexations. In addition, it expands the class of districts and municipalities subject to the moratorium. Under current law, that class is defined by districts and municipalities with a consent agreement as of the effective date of the law authorizing strategic partnership agreements. **HB 1028** moves that date forward nineteen days, from August 27, 1979 to September 15, 1979. The reliance on the date in current law, while creating a closed class, was reasonable in the context of the effective date of new authority for strategic partnership agreements. The only apparent reason for the classification created by **HB 1028** is to include within that class specific, identifiable districts that are not named and do not share in the reasonableness of the original classification.

Accordingly, the point of order is well-taken and sustained.

The ruling precluded further consideration of the bill.

#### MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 3).

#### **HB 1230 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Place submitted the following conference committee report on **HB 1230**:

Austin, Texas, May 30, 1997

Honorable Bob Bullock  
President of the Senate

Honorable Pete Laney  
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1230** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Duncan

Place

Bivins

McReynolds

Fraser

A. Reyna

Haywood

Madla

On the part of the Senate

On the part of the House

**HB 1230**, A bill to be entitled An Act relating to the place of detention for juveniles in certain counties and to the use or establishment of certain criminal detention facilities.

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

SECTION 1. Section 51.12, Family Code, is amended by amending Subsections (a), (d), and (g) and adding Subsections (i) and (j) to read as follows:

(a) Except as provided by Subsection (h), a child may be detained only in a:

- (1) juvenile processing office in compliance with Section 52.025;
- (2) place of nonsecure custody in compliance with Section 52.027; ~~or~~
- (3) certified juvenile detention facility that complies with the requirements of Subsection (f); ~~or~~
- (4) secure detention facility as provided by Subsection (i).

(d) Except as provided by Subsection (i), a [No] child may not [shall] be placed in a facility that has not been certified under Subsection (c) [of this section] as suitable for the detention of children. Except as provided by Subsection (i), a [A] child detained in a facility that has not been certified under Subsection (c) [of this section] as suitable for the detention of children shall be entitled to immediate release from custody in that facility.

(g) Except for a child detained in a juvenile processing office, ~~or~~ a place of nonsecure custody, or a secure detention facility as provided by Subsection (i), a child detained in a building that contains a jail or lockup may not have any contact with:

- (1) part-time or full-time security staff, including management, who have contact with adults detained in the same building; or
- (2) direct-care staff who have contact with adults detained in the same building.

(i) After being taken into custody, a child may be detained in a secure detention facility until the child is released under Section 53.01, 53.012, or 53.02 or until a detention hearing is held under Section 54.01(a), regardless of whether the facility has been certified under Subsection (c), if:

- (1) a certified juvenile detention facility is not available in the county in which the child is taken into custody;
- (2) the detention facility complies with:
  - (A) the short-term detention standards adopted by the Texas Juvenile Probation Commission; and
  - (B) the requirements of Subsection (f); and
- (3) the detention facility has been designated by the county juvenile board for the county in which the facility is located.

(j) If a child who is detained under Subsection (i) is not released from detention at the conclusion of the detention hearing for a reason stated in Section 54.01(e), the child may be detained after the hearing only in a certified juvenile detention facility.

SECTION 2. Section 52.02(a), Family Code, is amended to read as follows:

- (a) A person taking a child into custody, without unnecessary delay and without first taking the child to any place other than a juvenile processing office designated under Section 52.025 ~~[of this code]~~, shall do one of the following:
- (1) release the child to a parent, guardian, custodian of the child, or

other responsible adult upon that person's promise to bring the child before the juvenile court as requested by the court;

(2) bring the child before the office or official designated by the juvenile court if there is probable cause to believe that the child engaged in delinquent conduct or conduct indicating a need for supervision;

(3) bring the child to a detention facility designated by the juvenile court;

(4) bring the child to a secure detention facility as provided by Section 51.12(i);

(5) bring the child to a medical facility if the child is believed to suffer from a serious physical condition or illness that requires prompt treatment; or

(6) [~~5~~] dispose of the case under Section 52.03 [~~of this code~~].

SECTION 3. Sections 52.026(a) and (b), Family Code, are amended to read as follows:

(a) It shall be the duty of the law enforcement officer who has taken a child into custody to transport the child to the appropriate [~~juvenile~~] detention facility if the child is not released to the parent, guardian, or custodian of the child.

(b) If the juvenile detention facility is located outside the county in which the child is taken into custody, it shall be the duty of the sheriff of that county to transport the child to the appropriate juvenile detention facility unless [~~if~~] the child is:

(1) detained in a secure detention facility under Section 51.12(i); or

(2) [~~not~~] released to the parent, guardian, or custodian of the child.

SECTION 4. Sections 52.027(b) and (d), Family Code, are amended to read as follows:

(b) A child described by Subsection (a) must be taken only to a place previously designated by the head of the law enforcement agency with custody of the child as an appropriate place of nonsecure custody for children unless the child:

(1) is released under Section 52.02(a)(1);

(2) is taken before a municipal court or justice court; or

(3) for truancy or running away, is taken to a juvenile detention facility, or a secure detention facility, as authorized by Sections 51.12(a)(3) and (4), respectively, for the detention of the child as provided by Section 54.011.

(d) The following procedures shall be followed in a place of nonsecure custody for children:

(1) a child may not be secured physically to a cuffing rail, chair, desk, or other stationary object;

(2) the child may be held in the nonsecure facility only long enough to accomplish the purpose of identification, investigation, processing, release to parents, or the arranging of transportation to the appropriate juvenile court, juvenile detention facility, secure detention facility, municipal court, or justice court;

(3) residential use of the area is prohibited; and

(4) the child shall be under continuous visual supervision by a law enforcement officer or facility staff person during the time the child is in nonsecure custody.

SECTION 5. Section 53.01(d), Family Code, is amended to read as follows:

(d) Unless the juvenile board approves a written procedure proposed by the office of prosecuting attorney and chief juvenile probation officer which provides otherwise, if it is determined that the person is a child and, regardless of a finding of probable cause, or a lack thereof, there is an allegation that the child engaged in delinquent conduct of the grade of felony, or conduct constituting a misdemeanor offense involving violence to a person or the use or possession of a firearm, illegal knife, or club, as those terms are defined by Section 46.01, Penal Code, or prohibited weapon, as described by Section 46.05, Penal Code, the case shall be promptly forwarded to the office of the prosecuting attorney, accompanied by:

- (1) all documents that accompanied the current referral; and
- (2) a summary of all prior referrals of the child to the juvenile court, juvenile probation department, or a [juvenile] detention facility.

SECTION 6. Section 53.02(a), Family Code, is amended to read as follows:

(a) If a child is brought before the court or delivered to a detention facility as authorized by Sections 51.12(a)(3) and (4) ~~[designated by the court]~~, the intake or other authorized officer of the court shall immediately make an investigation and shall release the child unless it appears that his detention is warranted under Subsection (b) ~~[of this section]~~. The release may be conditioned upon requirements reasonably necessary to insure the child's appearance at later proceedings, but the conditions of the release must be in writing and filed with the office or official designated by the court and a copy furnished to the child.

SECTION 7. Section 54.011(a), Family Code, is amended to read as follows:

(a) The detention hearing for a status offender or nonoffender who has not been released administratively under Section 53.02 shall be held before the 24th hour after the time the child arrived at a ~~[the designated]~~ detention facility, excluding hours of a weekend or a holiday. Except as otherwise provided by this section, the judge or referee conducting the detention hearing shall release the status offender or nonoffender from secure detention.

SECTION 8. Section 261.405, Family Code, is amended to read as follows:

Sec. 261.405. INVESTIGATIONS IN COUNTY [JUVENILE] DETENTION FACILITIES INVOLVING CHILDREN. A report of alleged abuse or neglect in a county juvenile detention facility or other secure detention facility in which a child is placed shall be made to a local law enforcement agency for investigation.

SECTION 9. Section 262.108, Family Code, is amended to read as follows:

Sec. 262.108. Unacceptable Facilities for Housing Child. When a child is taken into possession under this chapter, that child may not be held in isolation or in a jail, ~~[or]~~ juvenile detention facility, or other secure detention facility.

SECTION 10. The change in law made by this Act applies only to a child taken into custody on or after the effective date of this Act.

SECTION 11. This Act takes effect September 1, 1997.

SECTION 12. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Representative Place moved to adopt the conference committee report on **HB 1230**.

The motion prevailed.

**HB 1941 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Place submitted the following conference committee report on **HB 1941**:

Austin, Texas, May 30, 1997

Honorable Bob Bullock  
President of the Senate

Honorable Pete Laney  
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1941** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Armbrister	Place
Brown	Gutierrez
Lucio	Kuempel
Ogden	Hightower
Nixon	King
On the part of the Senate	On the part of the House

**HB 1941**, A bill to be entitled An Act relating to poaching; providing a penalty.

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

SECTION 1. Section 61.022, Parks and Wildlife Code, is amended to read as follows:

Sec. 61.022. TAKING WILDLIFE RESOURCES WITHOUT CONSENT OF LANDOWNER PROHIBITED. (a) No person may hunt ~~or~~ catch by any means or method or possess a wildlife resource ~~[game animal or game bird, fish, marine animal, or other aquatic life]~~ at any time and at any place covered by this chapter unless the owner of the land or water, or the owner's agent, consents.

(b) A person who violates Subsection (a) the first time commits an offense that is a Class B Parks and Wildlife Code misdemeanor and is punishable in addition by the revocation or suspension under Section 12.5015 of hunting and fishing licenses and permits.



(c) A second violation of Subsection (a) is a Class A Parks and Wildlife Code misdemeanor and is punishable in addition by the revocation or suspension under Section 12.5015 of hunting and fishing licenses and permits.

(d) A third or subsequent violation of Subsection (a) is a state jail felony under Section 12.35, Penal Code, and is punishable in addition by the revocation or suspension under Section 12.5015 of hunting and fishing licenses and permits.

SECTION 2. Subchapter F, Chapter 12, Parks and Wildlife Code, is amended by adding Section 12.5015 to read as follows:

Sec. 12.5015. AUTOMATIC REVOCATION OF HUNTING OR FISHING LICENSE OR PERMIT. (a) Except as provided by this section, any hunting or fishing license or permit issued by the department to a person is automatically revoked on final conviction of the person of an offense under Section 61.022.

(b) If the holder of a lifetime license is finally convicted of an offense under Section 61.022, the person's lifetime license is automatically suspended. The suspension is for a period set by the court of not less than one year or more than five years. If the court does not set a period, the suspension is for one year from the date the conviction becomes final.

(c) On conviction of a person for an offense under Section 61.022, the court shall set a period of not less than one year and not more than five years during which the department may not issue that person a license, tag, or stamp under Chapter 42, 46, or 50. If the court does not set a period, the department may not issue that person a license, tag, or stamp under Chapter 42, 46, or 50 before the first anniversary of the date the conviction becomes final.

(d) A person who has a license or permit revoked or suspended under this section shall surrender the revoked or suspended license or permit to the court. The court shall send the department the revoked or suspended license or permit and a copy of the judgment of conviction.

SECTION 3. (a) This Act takes effect September 1, 1997.

(b) The change in law made by this Act applies only to an offense under Section 61.022, Parks and Wildlife Code, as amended by this Act, that takes place on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date. An offense under Section 61.022, Parks and Wildlife Code, that takes place before the effective date of this Act is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Representative Place moved to adopt the conference committee report on **HB 1941**.

The motion prevailed.

**HB 2088 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Cuellar submitted the following conference committee report on **HB 2088**:

Austin, Texas, May 30, 1997

Honorable Bob Bullock  
President of the Senate

Honorable Pete Laney  
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2088** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Zaffirini	Cuellar
Carona	Berlanga
Gallegos	Coleman
Galloway	Hamric
Madla	Pickett
On the part of the Senate	On the part of the House

**HB 2088**, A bill to be entitled An Act relating to the regulation of certain midwives; providing administrative penalties.

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

SECTION 1. Sections 1(c)(1), (2), (11), (12), and (13), Texas Midwifery Act (Article 4512i, Vernon's Texas Civil Statutes), are amended to read as follows:

(1) "Midwife" means a person who practices midwifery and has met the requirements for documentation as established by this Act and the rules of the [standards of the] midwifery board.

(2) "Midwifery" means the practice by a midwife of:

(A) providing [giving] the necessary supervision, care, and advice to a woman during normal pregnancy, labor, and the postpartum period;

(B) conducting a normal delivery of a child; and

(C) providing normal newborn care.

(11) "Normal [childbirth]" means, as applied in this Act to pregnancy, [means the] labor, [and] delivery, the postpartum period, and the newborn period, the determination by a midwife that a client during those periods is at a low risk of developing [at or close to term, of a pregnant woman whose assessment reveals no abnormality or signs or symptoms of] complications, as defined in rules adopted by the midwifery board.

(12) "Newborn [care]" means an infant from birth through [the care of a child for] the first six weeks of [the child's] life.

(13) "Postpartum period [care]" means [the care of a woman for] the first six weeks after a [the] woman has given birth.

SECTION 2. Section 3D(c), Texas Midwifery Act (Article 4512i, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) If the program coordinator has knowledge that a potential ground for removal exists, the program coordinator shall notify the chairman of the midwifery board of the ground. The program coordinator and chairman of the midwifery board [~~of health~~] shall then notify the board [~~governor~~] that a potential ground for removal exists.

SECTION 3. Section 8, Texas Midwifery Act (Article 4512i, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 8. DUTIES AND POWERS OF THE MIDWIFERY BOARD. Subject to the approval of the Texas Board of Health, the midwifery board shall:

(1) establish requirements for basic [~~approved~~] midwifery education and midwifery continuing education [~~courses~~];

(2) [~~establish qualifications for the instructors of those courses;~~

[~~(3)~~] issue midwifery basic information manuals;

(3) [~~(4)~~] establish eligibility requirements for taking a comprehensive midwifery [~~the final~~] examination before initial documentation [~~of a basic midwifery education course~~]; and

(4) approve a comprehensive midwifery examination that must be passed before initial documentation

[~~(5) issue final examinations for basic midwifery education courses~~].

SECTION 4. Section 8A, Texas Midwifery Act (Article 4512i, Vernon's Texas Civil Statutes), is amended by amending Subsections (b) and (c) and by adding Subsection (e) to read as follows:

(b) Subject to the approval of the Texas Board of Health, the midwifery board shall:

(1) adopt substantive and procedural rules as necessary for the documentation [~~identification~~] of midwives;

(2) adopt rules prescribing minimum standards for the approval and revocation of approval of basic midwifery education courses and midwifery continuing education courses;

(3) adopt rules prescribing the standards for the practice of midwifery in this state, including standards required for the delineation of findings that preclude a woman or newborn from being classified as having a normal pregnancy, labor, delivery, postpartum period, or newborn period, and standards for administration of oxygen to a mother or newborn by a midwife;

(4) adopt rules prescribing minimum standards for the approval and revocation of approval of instructors or facilities used in basic midwifery education courses and midwifery continuing education courses;

(5) [~~(4)~~] adopt rules prescribing the type of courses and number of hours required to meet the mandatory basic midwifery education course and midwifery continuing education course requirements;

(6) [~~(5)~~] adopt rules prescribing a procedure for reporting and processing complaints relating to the practice of midwifery in this state;

(7) adopt and implement substantive and procedural rules as necessary to discipline midwives determined to be in violation of this Act or otherwise a threat to the public health and safety;

(8) adopt rules as necessary to establish eligibility for reciprocity for initial documentation under this Act;

(9) [(6)] prepare and publish reports on the practice of midwifery in this state including statistical reporting of infant fetal morbidity and mortality; and

(10) [(7)] adopt any additional rules necessary to implement any duty imposed on the board or the department under this Act.

(c) The department, with the recommendation [~~advice~~] of the midwifery board, shall:

(1) implement the rules governing basic midwifery education courses and midwifery continuing education courses;

(2) implement the rules governing the approval of instructors or facilities used for offering basic midwifery education courses and midwifery continuing education courses;

(3) prepare and distribute basic midwifery information and instructor manuals; and

(4) enter into contracts and agreements necessary to carry out this Act.

(e) The rules adopted under Subsection (b)(7) of this section must include rules relating to:

(1) warnings provided to midwives for violations of this Act or rules adopted under this Act;

(2) agreed orders for additional education by midwives;

(3) recommendations or requirements for medical or psychological treatment, including treatment related to substance abuse by midwives; and

(4) restrictions on the practice of a midwife, including practice limitation and the suspension, revocation, and placement on probation of documentation.

SECTION 5. Section 9(a), Texas Midwifery Act (Article 4512i, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The midwifery board shall approve basic information manuals and instructor manuals for the practice of midwifery, which may be used in basic midwifery education courses. The department shall provide the manuals to each documented midwife and to any other person on request. An approved basic information manual must include information about:

(1) the knowledge necessary to practice as a midwife;

(2) the basic education and continuing education requirements for a midwife;

(3) the legal requirements and procedures pertaining to midwifery;

(4) the standards of practice for a midwife; and

(5) other information or procedures required by the midwifery board or the board.

SECTION 6. Section 10(b), Texas Midwifery Act (Article 4512i, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) At the time of initial documentation, the person shall provide the program coordinator with documentary evidence that the person has met all of the requirements for ~~the~~ mandatory basic midwifery education ~~course~~ as prescribed by rules approved by the board and has passed the comprehensive midwifery examination approved by the midwifery board. ~~[The person may also provide the program coordinator with a letter of documentation issued under Section 12 of this Act as evidence that the midwife has passed the voluntary examination of the course.]~~

SECTION 7. Section 11, Texas Midwifery Act (Article 4512i, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 11. EXAMINATION. (a) The midwifery board, with the approval of the board, shall adopt a comprehensive midwifery examination for persons regulated under this Act.

~~(b) [(e)]~~ The midwifery board shall have the written portion of the examination, if any, validated by an independent testing professional.

SECTION 8. Section 12, Texas Midwifery Act (Article 4512i, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 12. DOCUMENTATION LETTER. The department shall provide a letter of documentation to a person who fulfills the ~~[educational]~~ requirements for documentation.

SECTION 9. Section 15, Texas Midwifery Act (Article 4512i, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 15. ROSTER. (a) The department shall maintain a roster of all persons documented as midwives in this state ~~[identified to practice midwifery].~~

(b) The roster shall contain for each person the information required on the documentation ~~[identification]~~ form of this Act and other information that the department determines necessary to identify with accuracy each midwife who is documented ~~[identified]~~ under this Act. This information shall be [a] public information ~~[record]~~ as defined in Chapter 552, Government Code ~~[424; Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes)].~~

SECTION 10. Section 16(f), Texas Midwifery Act (Article 4512i, Vernon's Texas Civil Statutes), is amended to read as follows:

(f) A midwife shall encourage a client to seek medical care through consultation or referral, as specified by rules adopted by the midwifery board, if the midwife determines that the pregnancy, labor, delivery, postpartum period, or newborn period of a woman or newborn may not be classified as "normal" for purposes of this Act ~~[recognizes a sign or symptom of a complication to the client's childbirth].~~

SECTION 11. The Texas Midwifery Act (Article 4512i, Vernon's Texas Civil Statutes) is amended by adding Section 16A to read as follows:

Sec. 16A. PREVENTION OF OPHTHALMIA NEONATORUM. Unless the newborn is immediately transferred to a hospital because of an emergency, a midwife who attends the birth of a child shall administer to that child prophylaxis approved by the board for the prevention of ophthalmia neonatorum as required under Section 81.091, Health and Safety Code.

SECTION 12. Section 17, Texas Midwifery Act (Article 4512i, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 17. PROHIBITED ACTS. (a) A midwife may not:

(1) provide midwifery care in violation of rules adopted by the midwifery board, except in an emergency situation that poses an immediate threat to the life of a woman or newborn;

(2) except for prophylaxis approved by the board to prevent ophthalmia neonatorum or the administration of oxygen in accordance with rules of the midwifery board, administer a prescription drug to a client except under the supervision of a licensed physician in accordance with the laws of this state;

(3) ~~[(2)]~~ use forceps or surgical instruments for any procedure other than cutting the umbilical cord or providing emergency first aid during delivery;

(4) ~~[(3)]~~ remove placenta by invasive techniques;

(5) ~~[(4)]~~ advance or retard labor or delivery by using medicines or mechanical devices;

(6) except as provided by Subsection (b) of this section, [(5)] use in connection with the midwife's name a title, abbreviation or any designation tending to imply that the midwife is a "registered" or "certified" midwife as opposed to one who is identified in compliance with this Act;

~~[(6) assist at childbirth other than a normal childbirth except in an emergency situation that poses an immediate threat to the life of the mother or newborn;]~~

(7) advertise or otherwise represent that the midwife is a physician or a graduate of a medical school unless the midwife is licensed to practice medicine by the Texas State Board of Medical Examiners;

(8) use any advertising or identification statement that is false, misleading, or deceptive;

(9) ~~[(8)]~~ except as authorized by rules adopted by the Board of Nurse Examiners and the Board of Vocational Nurse Examiners, use in combination with the term "midwife," the term "nurse" or other title, initials, or other designation that implies that the midwife is licensed as a registered nurse or licensed vocational nurse; or

(10) ~~[(9)]~~ make a false statement or false record on a birth certificate pursuant to Section 195.003, Health and Safety Code.

(b) Notwithstanding Subsection (a)(6) of this section, a midwife certified by the North American Registry of Midwives that, in an identification statement or advertisement, uses "certified" as part of the midwife's title must include in the statement or advertisement that the midwife is certified by the North American Registry of Midwives. The midwife may not use an identification statement or advertisement that would lead a reasonable person to believe that the midwife is certified by any governmental entity.

SECTION 13. The Texas Midwifery Act (Article 4512i, Vernon's Texas Civil Statutes) is amended by adding Section 17A to read as follows:

Sec. 17A. GROUNDS FOR DISCIPLINARY ACTION; REFUSAL TO ISSUE LETTER OF DOCUMENTATION. The midwifery board may discipline a documented midwife and may refuse to issue a letter of documentation to an individual for:

(1) noncompliance with this Act or rules adopted under this Act;

(2) submission of false or misleading information to the midwifery board, the board, or the department;

(3) conviction of a felony or of a misdemeanor involving moral turpitude;

(4) intemperate use of alcohol or drugs;

(5) unprofessional or dishonorable conduct that may reasonably be determined to deceive or defraud the public;

(6) inability to practice midwifery with reasonable skill and safety because of illness, disability, or psychological impairment;

(7) judgment by a court of competent jurisdiction that the individual is mentally impaired;

(8) a suspension, a revocation, or another disciplinary action taken by another jurisdiction affecting the individual's authority to practice midwifery;

(9) submission of a birth or death certificate known by the individual to be false or fraudulent or other noncompliance with Title 3, Health and Safety Code, and rules adopted under that title;

(10) noncompliance with Chapter 244, Health and Safety Code, or rules adopted under that chapter; or

(11) failure to practice midwifery in a manner consistent with the public health and safety.

SECTION 14. Section 18(a), Texas Midwifery Act (Article 4512i, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) A person required to be documented under this Act [~~midwife~~] commits an offense if the person [~~midwife~~] knowingly or intentionally[-

~~(1) practices midwifery without proper documentation issued under this Act[;~~

~~(2) fails to comply with the requirements of this Act relating to the collection of blood specimens for the screening of newborns;~~

~~(3) commits an act prohibited by Section 17 of this Act; or~~

~~(4) fails to comply with the disclosure requirements of this Act].~~

SECTION 15. Section 18B(a), Texas Midwifery Act (Article 4512i, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) At the request of the midwifery board or commissioner, the attorney general or a district, county, or city attorney may institute a civil action in district court to collect a civil penalty from a person who is required to be documented under this Act and who knowingly or intentionally has practiced midwifery:

(1) without proper documentation issued under [violated] this Act; or

(2) in violation of an order of the midwifery board or while the person's documentation was suspended or revoked.

SECTION 16. Section 18D, Texas Midwifery Act (Article 4512i, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 18D. COMPLAINT INVESTIGATION AND DISPOSITION. The midwifery board shall adopt rules concerning the investigation of a complaint filed with the midwifery board. The rules adopted under this subsection shall:

(1) distinguish between categories of complaints; [~~and~~]

(2) ensure that the person who filed the complaint has an opportunity to explain the allegations made in the complaint; and

(3) provide for the release of any relevant midwifery or medical record to the midwifery board, without the necessity of consent by the midwife's client, as necessary to conduct an investigation of a complaint.

SECTION 17. The Texas Midwifery Act (Article 4512i, Vernon's Texas Civil Statutes) is amended by adding Section 18E to read as follows:

Sec. 18E. ADMINISTRATIVE PENALTY. (a) The midwifery board may assess an administrative penalty against a person who violates this Act or a rule adopted under this Act.

(b) The penalty may not exceed \$1,000 for each violation. Each day of a continuing violation constitutes a separate violation.

(c) In determining the amount of an administrative penalty assessed under this section, the midwifery board shall consider:



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

(d) All proceedings for the assessment of an administrative penalty under this Act are subject to Chapter 2001, Government Code.

(e) If, after investigation of a possible violation and the facts surrounding that possible violation, the midwifery board or its designee determines that a violation has occurred, the midwifery board or its designee shall give written notice of the violation to the person alleged to have committed the violation. The notice must include:

- (1) a brief summary of the alleged violation;
- (2) a statement of the amount of the proposed penalty based on the factors set forth in Subsection (c) of this section; and
- (3) a statement of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(f) Not later than the 20th day after the date on which the notice is received, the person notified may accept the determination of the midwifery board or its designee made under this section, including the proposed penalty, or make a written request for a hearing on that determination.

(g) If the person notified of the violation accepts the determination of the midwifery board or its designee, the midwifery board shall issue an order approving the determination and ordering that the person pay the proposed penalty.

(h) If the person notified under Subsection (e) of this section timely requests a hearing, the midwifery board or its designee shall:

- (1) set a hearing;
- (2) give written notice of the hearing to the person; and
- (3) designate a hearings examiner to conduct the hearing.

(i) The hearings examiner shall make findings of fact and conclusions of law and shall promptly issue to the midwifery board a proposal for decision as to the occurrence of the violation and a recommendation as to the amount of the proposed penalty if a penalty is determined to be warranted.

(j) Based on the findings of fact and conclusions of law and the recommendations of the hearings examiner, the midwifery board by order may find that a violation has occurred and may assess a penalty or may find that no violation has occurred.

(k) The midwifery board shall give notice of the order under Subsection (j) of this section to the person notified. The notice must include:

- (1) separate statements of the findings of fact and conclusions of law;
- (2) the amount of any penalty assessed; and
- (3) a statement of the right of the person to judicial review of the order.

(l) Not later than the 30th day after the date on which the decision is final as provided by Chapter 2001, Government Code, the person shall:

- (1) pay the penalty;

(2) pay the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty; or

(3) without paying the penalty, file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both the occurrence of the violation and the amount of the penalty.

(m) Within the 30-day period, a person who acts under Subsection (l)(3) of this section may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account; or

(B) giving to the court a supersedeas bond that is approved by the court for the amount of the penalty and that is effective until all judicial review of the order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the amount of the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the midwifery board by certified mail.

(n) If the midwifery board receives a copy of an affidavit under Subsection (m)(2) of this section, the midwifery board may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty and to give a supersedeas bond.

(o) If the person does not pay the penalty and the enforcement of the penalty is not stayed, the midwifery board may refer the matter to the attorney general for collection of the penalty.

(p) Judicial review of the order:

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

(2) is under the substantial evidence rule.

(q) If the court sustains the occurrence of the violation, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty. If the court does not sustain the occurrence of the violation, the court shall order that no penalty is owed.

(r) When the judgment of the court becomes final, the court shall proceed under this subsection. If the person paid the amount of the penalty under Subsection (l)(2) of this section and if that amount is reduced or is not upheld by the court, the court shall order that the midwifery board pay the appropriate amount plus accrued interest to the person. The rate of the interest is the rate charged on loans to depository institutions by the New York Federal Reserve Bank, and the interest shall be paid for the period beginning on the date the penalty was paid and ending on the date the penalty is remitted. If the person paid the penalty under Subsection (m)(1)(A) of this section or gave a supersedeas bond and if the amount of the penalty is not upheld by the court,

the court shall order the release of the escrow account or bond. If the person paid the penalty under Subsection (m)(1)(A) and the amount of the penalty is reduced, the court shall order that the amount of the penalty be paid to the midwifery board from the escrow account and that the remainder of the account be released. If the person gave a supersedeas bond and if the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the amount.

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

(t) The midwifery board may assess reasonable expenses and costs against a person in an administrative hearing if, as a result of the hearing, an administrative penalty is assessed against the person. The person shall pay expenses and costs assessed under this subsection not later than the 30th day after the date of the order of the midwifery board requiring the payment of expenses and costs is final. The midwifery board may refer the matter to the attorney general for collection of the expenses and costs.

(u) If the attorney general brings an action against a person to enforce an administrative penalty assessed under this Act and the person is found liable for an administrative penalty, the attorney general may recover, on behalf of the attorney general, midwifery board, and the department, reasonable expenses and costs.

(v) For purposes of this section, "reasonable expenses and costs" includes expenses incurred by the department, midwifery board, and the attorney general in the investigation, initiation, or prosecution of an action, including reasonable investigative costs, court costs, attorney's fees, witness fees, and deposition expenses.

(w) Costs and expenses collected under this section shall be deposited in the state treasury to the credit of a special account that may be appropriated only to the department. Section 403.095, Government Code, does not apply to the account.

SECTION 18. Section 483.001(13), Health and Safety Code, is amended to read as follows:

(13) "Prescription" means an order from a practitioner, or an agent of the practitioner designated in writing as authorized to communicate prescriptions, or an order made in accordance with Section 3.06(d)(5) or (6), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), or Section 16A, Texas Midwifery Act (Article 4512i, Vernon's Texas Civil Statutes), to a pharmacist for a dangerous drug to be dispensed that states:

(A) the date of the order's issue;

(B) the name and address of the patient;

(C) if the drug is prescribed for an animal, the species of the animal;

(D) the name and quantity of the drug prescribed;

(E) the directions for the use of the drug;

(F) the intended use of the drug unless the practitioner determines the furnishing of this information is not in the best interest of the patient;

(G) the name, address, and telephone number of the

practitioner at the practitioner's usual place of business, legibly printed or stamped; and

(H) the name, address, and telephone number of the documented midwife, registered nurse, or physician assistant, legibly printed or stamped, if signed by a documented midwife, registered nurse, or physician assistant.

SECTION 19. Section 483.041(c), Health and Safety Code, is amended to read as follows:

(c) Subsection (a) does not apply to the possession of a dangerous drug in the usual course of business or practice or in the performance of official duties by the following persons or an agent or employee of the person:

- (1) a pharmacy licensed by the board;
- (2) a practitioner;
- (3) a person who obtains a dangerous drug for lawful research, teaching, or testing, but not for resale;
- (4) a hospital that obtains a dangerous drug for lawful administration by a practitioner;
- (5) an officer or employee of the federal, state, or local government;
- (6) a manufacturer or wholesaler licensed by the commissioner of health under Chapter 431 (Texas Food, Drug, and Cosmetic Act);
- (7) a carrier or warehouseman; ~~or~~
- (8) a home and community support services agency licensed under Chapter 142, which may possess sterile water for injection and irrigation and sterile saline for injection and irrigation as authorized by Section 142.0061; or
- (9) a documented midwife who obtains oxygen for administration to a mother or newborn or who obtains a dangerous drug for the administration of prophylaxis to a newborn for the prevention of ophthalmia neonatorum in accordance with Section 16A, Texas Midwifery Act (Article 4512i, Vernon's Texas Civil Statutes).

SECTION 20. Sections 10(e)-(i), Texas Midwifery Act (Article 4512i, Vernon's Texas Civil Statutes), are repealed.

SECTION 21. This Act takes effect September 1, 1997.

SECTION 22. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Representative Cuellar moved to adopt the conference committee report on **HB 2088**.

The motion prevailed.

#### **SB 148 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Rangel submitted the conference committee report on **SB 148**.

Representative Rangel moved to adopt the conference committee report on **SB 148**.

A record vote was requested.

The motion prevailed by (Record 623): 124 Yeas, 17 Nays, 1 Present, not voting.

Yeas -- Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Craddick; Cuellar; Danburg; Davila; Davis; Delisi; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Finnell; Gallego; Garcia; Glaze; Goodman; Goolsby; Gray; Greenberg; Haggerty; Hamric; Hawley; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; Holzheuser; Howard; Hunter; Hupp; Isett; Jackson; Janek; Jones, D.; Jones, J.; Junell; Kamel; Keel; Keffer; King; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Rhodes; Roman; Sadler; Siebert; Smith; Solis; Solomons; Staples; Stiles; Swinford; Telford; Thompson; Tillery; Torres; Turner, S.; Uher; Van de Putte; Walker; West; Williamson; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Nays -- Crabb; Culberson; Denny; Elkins; Galloway; Grusendorf; Hartnett; Heflin; Krusee; Madden; Nixon; Seaman; Shields; Smithee; Talton; Turner, B.; Williams.

Present, not voting -- Mr. Speaker(C).

Absent, Excused -- Flores; Giddings; Gutierrez; Price; Serna.

Absent -- Horn; Reyna, E.

**HB 1301 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Allen submitted the following conference committee report on **HB 1301**:

Austin, Texas, May 30, 1997

Honorable Bob Bullock  
President of the Senate

Honorable Pete Laney  
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1301** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Whitmire  
Shapleigh  
Patterson  
Wentworth  
Shapiro

Allen  
Hightower  
Hupp  
Ramsay

On the part of the Senate

On the part of the House

**HB 1301**, A bill to be entitled An Act relating to the oversight of the private sector prison industries program.

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

SECTION 1. Subchapter C, Chapter 497, Government Code, is amended to read as follows:

SUBCHAPTER C. PRIVATE SECTOR PRISON  
INDUSTRIES OVERSIGHT AUTHORITY  
[WORK PROGRAM PLAN]

Sec. 497.051. PURPOSE; DEFINITION [WORK PROGRAM PLAN].

(a) The Private Sector Prison Industries Oversight Authority is created to approve, certify, and oversee the operation of private sector prison industries programs in the department, the Texas Youth Commission, and in county correctional facilities in compliance [shall establish policies for the administration of a conditional work program that may employ not more than 500 male and female work program residents. The policies must include a work program contract that includes an agreement by the resident to contribute from the wages received by the resident for the resident's participation in private industry employment a percentage of the wages, in accordance with rules adopted by the board to comply] with the federal prison enhancement certification program established under 18 U.S.C. Section 1761[; and a percentage of the wages for:

[(1) costs of supervision;

[(2) restitution to the victim or victims of the resident; and

[(3) savings to be retained for the resident in a designated account for the resident's benefit and receipt on release]. The executive director shall provide the authority with clerical and technical support as necessary for the authority to perform duties imposed on the authority by this subchapter and shall ensure that the department implements the policies adopted by the authority that relate to the operation of private sector prison industries programs.

(b) In this [This] subchapter, "authority" means the Private Sector Prison Industries Oversight Authority [does not restore in whole or in part the civil rights of a work program resident.

(c) A work program resident employed under this subchapter is not subject to workers' compensation laws, and the resident and the resident's beneficiaries may not receive compensation under those laws, except that a private industry may provide workers' compensation benefits to a resident and a resident's beneficiaries as necessary to certify a work program operated by the industry as a work pilot project described in 18 U.S.C. Section 1761].

Sec. 497.052. MEMBERSHIP. (a) The authority is composed of nine members appointed by the governor:

(1) one of whom is representative of organized labor;

(2) one of whom is representative of employers;

(3) one of whom is representative of groups advocating the rights of victims of criminal offenses;

(4) one of whom is representative of groups advocating the rights of inmates;

(5) one of whom is experienced in the field of vocational rehabilitation;

(6) one of whom is an employer in the private sector prison industries program that is certified as in compliance with the federal prison enhancement certification program established under 18 U.S.C. Section 1761; and

(7) three of whom are public members.

(b) The following individuals shall serve as ex officio members of the authority:

(1) a member of the house of representatives designated by the speaker of the house;

(2) a member of the senate designated by the lieutenant governor;

(3) the executive director of the Texas Department of Criminal Justice or the designee of the executive director;

(4) the executive director of the Texas Workforce Commission or the designee of the executive director; and

(5) the executive director of the Texas Youth Commission or the designee of the executive director.

Sec. 497.053. TERMS. Appointed members of the authority serve staggered six-year terms, with three members' terms expiring on February 1 of each odd-numbered year.

Sec. 497.054. PRESIDING OFFICER. The governor shall designate the presiding officer from among the members of the authority, and the presiding officer shall serve in that capacity at the pleasure of the governor.

Sec. 497.055. REIMBURSEMENT. A member of the authority is not entitled to compensation but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the authority as provided in the General Appropriations Act.

Sec. 497.056. PRIVATE SECTOR PRISON INDUSTRIES OVERSIGHT ACCOUNT. (a) A private sector prison industries program shall make an annual payment to the authority in an amount equal to the amount of money the program would pay during that year for unemployment insurance if the employees of the program were engaged in non-prison employment.

(b) The authority shall forward fees collected under this section to the comptroller. The comptroller shall deposit the fees to the credit of an account in the general revenue fund to be known as the private sector prison industries oversight account. The legislature may appropriate funds from the account only for the purpose of paying the costs of the authority and the department in implementing this subchapter. At the end of each fiscal year, the comptroller shall transfer the excess funds in the account to the state treasury to the credit of the crime victims compensation fund.

(c) The authority by rule shall adopt a method for determining the amount of the fee owed by an industry under this section and a schedule for the payment of fees under this section.

Sec. 497.057. RULES. The authority shall adopt rules as necessary to ensure that the private sector prison industries program authorized by this subchapter is in compliance with the federal prison enhancement certification program established under 18 U.S.C. 1761.

Sec. 497.058. PREVAILING WAGE. (a) The authority by rule shall require that inmate employees at each private sector prison industries program are paid not less than the prevailing wage as computed by the authority, except that the authority may permit employers to pay an employee the minimum wage for the two-month period beginning on the date employment begins.

(b) For the purposes of computations required by this section:



(1) the prevailing wage is the wage paid for work of a similar nature in the location in which the work is performed;

(2) work of a similar nature is determined by openings and wages by occupation data collected by the economic research and analysis department of the Texas Workforce Commission; and

(3) the location in which work is performed is the council of government region in which the work is performed.

Sec. 497.0581. INMATE CONTRIBUTIONS. The authority by rule shall require an inmate to contribute a percentage of the wages received by the inmate under this subchapter to be deposited in the private sector prison industries oversight account. In establishing the percentage of the wages required to be contributed by inmates under this section, the authority shall ensure that the percentage does not place the private sector prison industries programs in the department in noncompliance with the federal prison enhancement certification program established under 18 U.S.C. Section 1761.

Sec. 497.059. LIMITING IMPACT ON NON-PRISON INDUSTRY. The authority may not grant initial certification to a private sector prison industries program if the authority determines that the operation of the program would result in the loss of existing jobs provided by the employer in this state.

Sec. 497.060. WORKERS' COMPENSATION. The authority by rule shall require private sector prison industries program employers to meet or exceed all federal requirements for providing compensation to inmates injured while working.

Sec. 497.061. RECIDIVISM STUDIES. The authority, with the cooperation of the Criminal Justice Policy Council, shall gather data to determine whether participation in a private sector prison industries program is a factor that reduces recidivism among inmates.

Sec. 497.062. LIMITATION ON NUMBER OF PARTICIPANTS. The authority may certify any number of private sector prison industries programs that meet or exceed the requirements of federal law and the rules of the authority, but in no event may the authority permit more than 1,500 inmates to participate in the program at any one time.

SECTION 2. (a) The initial appointments of the members of the Private Sector Prison Industries Oversight Authority, as required by Section 497.052, Government Code, as added by this Act, are as provided by this section. On or before January 1, 1998, the governor shall appoint the initial authority members. Of the initial public members, the governor shall appoint one to serve a term expiring February 1, 1999, one to serve a term expiring February 1, 2001, and one to serve a term expiring February 1, 2003, and of the nonpublic members, the governor shall appoint two to serve terms expiring February 1, 1999, two to serve terms expiring February 1, 2001, and two to serve terms expiring February 1, 2003. On expiration of those terms, the term of a member of the authority is six years, as provided by Section 497.053, Government Code.

(b) The Private Sector Prison Industries Oversight Authority by March 1, 1998, shall adopt the rules that the authority is required to adopt under Subchapter C, Chapter 497, Government Code, as amended by this Act.

SECTION 3. On January 1, 1998, the powers, duties, and obligations of

the Texas Department of Criminal Justice to oversee the private sector prison industries program authorized by Subchapter C, Chapter 497, Government Code, are transferred to the Private Sector Prison Industries Oversight Authority, as are any funds appropriated to the department for oversight of the program. On transfer of oversight authority and appropriated funds, the remaining duties of the department in regard to the program are as described by Subchapter C, Chapter 497, as amended by this Act.

SECTION 4. Notwithstanding Section 497.051(a), Government Code, as amended by this Act, the Private Sector Prison Industries Oversight Authority is not authorized to approve, certify, or oversee the operations of a private sector prison industries program operated on the effective date of this Act under a provisional certificate issued before January 1, 1993, under 18 U.S.C. Section 1761.

SECTION 5. This Act takes effect September 1, 1997.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Representative Allen moved to adopt the conference committee report on **HB 1301**.

The motion prevailed.

**HB 2837 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Thompson submitted the following conference committee report on **HB 2837**:

Austin, Texas, May 30, 1997

Honorable Bob Bullock  
President of the Senate

Honorable Pete Laney  
Speaker of the House of Representatives

Sirs: We, your conference committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 2837** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Ellis	Thompson
Lindsay	Serna
Barrientos	Clark
	Hinojosa
	Dutton
On the part of the Senate	On the part of the House

**HB 2837**, A bill to be entitled An Act relating to certain filing fees and salaries of judges in the statutory county courts of certain counties.

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

SECTION 1. Sections 25.0005(a) and (e), Government Code, are amended to read as follows:

(a) A statutory county court judge, other than a statutory county court judge who engages in the private practice of law or a judge in whose court fees and costs under Section 51.702 are not collected, shall be paid a total annual salary set by the commissioners court at an amount that is at least equal to the amount that is \$4,000 [~~\$1,000~~] less than the total annual salary received by a district judge in the county. A district judge's or statutory county court judge's total annual salary includes contributions and supplements, paid by the state or a county, other than contributions received as compensation under Section 74.051.

(e) A county is not required to meet the salary requirements of Subsection (a) for a particular court if:

(1) not later than September 1 of the year in which the county initially begins collecting fees and costs under Section 51.702, the county increases the salary of each statutory county court judge in the county to an amount that is at least:

(A) \$20,000 more than the salary the judge was entitled to on May 1 of that year, if the county initially begins collecting fees and costs under Section 51.702 before January 1, 1998, and is also at least \$24,000 more than the salary the judge was entitled to on May 1, 1997; and

(B) \$24,000 more than the salary the judge was entitled to on May 1 of that year if the county initially begins collecting fees and costs under Section 51.702 on or after January 1, 1998;

(2) the county maintains the salary at the minimum required by Subdivision (1);

(3) the county collects the fees and costs as provided by Section 51.702;

(4) the court has at least the jurisdiction provided by Section 25.0003; and

(5) except as provided by Subsection (f), the county uses at least 50 percent of the amount the county receives each state fiscal year under Section 25.0016 for salaries for the statutory county court judges.

SECTION 2. Section 25.0015(a), Government Code, is amended to read as follows:

(a) Beginning on the first day of the state fiscal year, the state shall annually compensate each county that collects the additional fees and costs under Section 51.702 in an amount equal to \$30,000 [~~\$25,000~~] for each statutory county court judge in the county who:

(1) does not engage in the private practice of law;

(2) presides over a court with at least the jurisdiction provided by Section 25.0003; and

(3) except as provided by Section 25.0005(d), is not excluded from the application of Section 25.0003 or Section 25.0005.

SECTION 3. Section 25.0016(c), Government Code, is amended to read as follows:

(c) In determining the amount deposited in the judicial fund under Section 51.702 for a county that collects fees and costs as provided by that section, the comptroller shall credit \$40 [~~\$30~~] of each fee deposited in the judicial fund under Section 51.701 by that county for cases assigned to a statutory county court as fees deposited under Section 51.702.

SECTION 4. Section 51.702(a), Government Code, is amended to read as follows:

(a) Except as provided by Subsection (g), in addition to all other fees authorized or required by other law, the clerk of a statutory county court shall collect a \$40 [~~\$30~~] filing fee in each civil case filed in the court to be used for court-related purposes for the support of the judiciary.

SECTION 5. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1997, and applies only to a fee for a case filed on or after the effective date of this Act or to a salary payment made on or after the effective date of this Act. A case filed or a salary payment made before the effective date of this Act is governed by the law in effect at the time the case was filed or the salary payment was made, and that law is continued in effect for that purpose.

(b) Section 1 of this Act takes effect January 1, 1998.

SECTION 6. This Act takes effect only if Senate Bill No. 310, Acts of the 75th Legislature, Regular Session, 1997, is enacted and becomes law. If Senate Bill No. 310 does not become law, this Act does not take effect.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Representative Thompson moved to adopt the conference committee report on **HB 2837**.

The motion prevailed.

#### **SB 149 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Cuellar submitted the conference committee report on **SB 149**.

#### **SB 149 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE BAILEY: Isn't it true that **SB 149** grants a faculty member who is terminated pursuant to this bill the opportunity to challenge that termination in state court on the facts as well as the law?

REPRESENTATIVE CUELLAR: That is correct. We wanted to make sure that once they go through the review process in that particular termination process that they had the right to go to court and have their day.

BAILEY: Secondly, isn't it also true that a faculty member under the bill has the right to present facts in court to show that he or she is not incompetent or guilty of neglecting their professional duties?

CUELLAR: Yes, that is correct, that is the legislative intent, Mr. Bailey.

BAILEY: And finally, isn't it true that **SB 149** provides a faculty member who is undergoing termination procedure the right to a hearing before a panel of their peers selected in a fair and impartial manner?

CUELLAR: Yes, that is correct and just let me add one more point. When we look at this bill, the main focus of this bill is to provide professional development of those professors. And even though we have some language

as to dismissal, the main purpose is for the professional development of those tenured professors. We want to make sure that we provide the evaluation, number one, but at the same time protect their academic freedom that they deserve under the law.

BAILEY: Henry, I just want to thank you on behalf of the faculty members, of which I am one occasionally, for working diligently to provide that balance between the need to terminate those who are not doing their job and at the same time protect faculty rights and academic freedom.

### **REMARKS ORDERED PRINTED**

Representative Bailey moved to print remarks by Representatives Bailey and Cuellar establishing legislative intent for **SB 149**.

The motion prevailed without objection.

Representative Cuellar moved to adopt the conference committee report on **SB 149**.

The motion prevailed.

### **SB 359 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Gray submitted the conference committee report on **SB 359**.

### **SB 359 - STATEMENT OF LEGISLATIVE INTENT**

REPRESENTATIVE HOWARD: Representative Gray, on page 44, line 10, there is a section that says that a person who operates a family home without a registration permit commits a Class B misdemeanor, and on page 33, under Section 32, we define that a home may register if they take care of four or more children. So, the interpretation of that would be that a family home that provides care for three or fewer children would not be required to register and therefore would not be under the possibility of committing a Class B misdemeanor. Is that your intent?

REPRESENTATIVE GRAY: That is my intent Mr. Howard. There is a distinction made between those who take care of three or fewer and those who take care of four or more.

### **REMARKS ORDERED PRINTED**

Representative Howard moved to print remarks by Representatives Howard and Gray establishing legislative intent for **SB 359**.

The motion prevailed without objection.

Representative Gray moved to adopt the conference committee report on **SB 359**.

The motion prevailed. (Heflin recorded voting no)

**SB 414 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative A. Reyna submitted the conference committee report on **SB 414**.

Representative A. Reyna moved to adopt the conference committee report on **SB 414**.

The motion was withdrawn.

**SB 1355 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Maxey submitted the conference committee report on **SB 1355**.

Representative Maxey moved to adopt the conference committee report on **SB 1355**.

The motion prevailed.

**HR 1315 - ADOPTED  
(by Smithee)**

The speaker laid before the house the following privileged resolution:

**HR 1315**

BE IT RESOLVED by the House of Representatives of the State of Texas, 75th Legislature, Regular Session, 1997, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 385** to consider and take action on the following specific matters:

House Rule 13, Sections 9(a)(2) and (3), are suspended to permit the committee to change Subsection (e)(4), and add Subsections (e)(5)-(10), Article 1.35A, Insurance Code, to read as follows:

(4) The office of public insurance counsel shall use the information collected or received under this subsection for the benefit of the public. Except as provided by this subsection, the information is subject to the open records law, Chapter 552, Government Code, and the office of public insurance counsel shall make determinations on requests for information in favor of access.

(5) The office of public insurance counsel is entitled to information that is confidential under any law of this state, including Section 27, Texas Health Maintenance Organization Act (Article 20A.27, Vernon's Texas Insurance Code), Chapter 108, Health and Safety Code, and the open records law, Chapter 552, Government Code.

(6) The office of public insurance counsel may not make public confidential information provided to the office under this subsection but may disclose a summary of the information that does not directly or indirectly identify the health maintenance organization that is the subject of the information. The office of public insurance counsel may not release, and a person or entity may not gain access to, any information that:

(A) could reasonably be expected to reveal the identity of a patient or physician or that reveals the zip code of a patient's primary residence;

(B) discloses provider discounts or differentials between payments and billed charges; or

(C) relates to actual payments to an identified provider made by a payer.

(7) Information collected or used by the office of public insurance counsel under this subsection is subject to the confidentiality provisions and criminal penalties of:

(A) Section 81.103, Health and Safety Code;

(B) Section 311.037, Health and Safety Code; and

(C) Section 5.08, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes).

(8) Information that is in the possession of the office of public insurance counsel and that relates to patients and physicians and any compilation, report, or analysis produced from the information that identifies patients and physicians are not:

(A) subject to discovery, subpoena, or other means of legal compulsion for release to any person or entity; or

(B) admissible in any civil, administrative, or criminal proceeding.

(9) Notwithstanding Subdivision (6)(A) of this subsection, the office of public insurance counsel may use zip code information to analyze information on a geographic basis.

(10) The office may not endorse or recommend a specific health maintenance organization or plan, or subjectively rate or rank such organizations or plans, other than through comparison and evaluation of objective criteria.

Explanation: These changes are necessary to provide adequate confidentiality provisions to protect information reviewed by the office of public insurance counsel, and to ensure that evaluations and comparisons of health maintenance organizations are done on a fair and objective basis.

**HR 1315** was adopted without objection.

**HR 1319 - ADOPTED**  
**(by Rhodes)**

The speaker laid before the house the following privileged resolution:

**HR 1319**

BE IT RESOLVED by the House of Representatives of the State of Texas, 75th Legislature, Regular Session, 1997, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 700** to consider and take action on the following matters:

House Rule 13, Section 9(a)(4), is suspended to permit the committee to add a new SECTION 24 to the bill to read as follows:

SECTION 24. Section 74.3012, Property Code, is amended to read as follows:

Sec. 74.3012. DELIVERY OF MONEY TO TEXAS NEW HORIZONS [URBAN] SCHOLARSHIP TRUST FUND. (a) The comptroller shall pay any portion of the total amount delivered by local exchange companies under this chapter in excess of \$2 million in any state fiscal year to the Texas New Horizons Scholarship Trust Fund established under Section 54.216, Education



~~Code [Notwithstanding and in addition to any other provision of this chapter or other law, a local exchange company may deliver reported money to a scholarship fund for urban students instead of delivering the money to the state treasurer as prescribed by Section 74.301].~~

~~(b) [A local exchange company may deliver the money under this section only to a scholarship fund established by one or more local exchange companies in this state to enable needy students from urban areas to attend college, technical school, or another postsecondary educational institution.~~

~~[(c) A local exchange company shall file with the state treasurer a verification of money delivered under this section that complies with Section 74.302.~~

~~[(d) A claim for money delivered to a scholarship fund under this section must be filed with the local exchange company that delivered the money. The local exchange company shall forward the claim to the administrator of the scholarship fund to which the money was delivered. The scholarship fund shall pay the claim if the fund determines in good faith that the claim is valid. A person aggrieved by a claim decision may file a suit against the fund in a district court in the county in which the administrator of the scholarship fund is located in accordance with Section 74.506.~~

~~[(e) The state treasurer shall prescribe forms and procedures governing this section, including forms and procedures relating to:~~

~~[(1) notice of presumed abandoned property;~~

~~[(2) delivery of reported money to a scholarship fund; and~~

~~[(3) filing of a claim.~~

~~[(f)] In this section, "local exchange company" means a telecommunications utility certificated to provide local exchange telephone service within the state and that has 50,000 or more access lines in service in this state and is not a telephone cooperative.~~

~~[(g) During the 1995-1996 fiscal year, the total amount of money that may be transferred by all local exchange companies under this section may not exceed \$400,000. During each subsequent state fiscal year, the total amount of money that may be transferred by all local exchange companies under this section may not exceed the total amount of money transferred to rural scholarship funds under Section 74.3011 during the previous state fiscal year. The state treasury shall keep a record of the total amount of money transferred annually. If the total amount of money transferred during a state fiscal year equals the amount allowed by this subsection, the treasury shall notify each local exchange company that the company may not transfer any additional money to the company's scholarship fund during the remainder of that state fiscal year.]~~

Explanation: This change is necessary to authorize the comptroller to transfer to the Texas New Horizons Scholarship Trust Fund amounts in excess of \$2 million delivered by telecommunications utilities under the unclaimed property statutes.

**HR 1319** was adopted without objection.

**HR 1320 - ADOPTED**  
(by **Dunnam**)

Representative Dunnam moved to suspend all necessary rules to take up and consider at this time **HR 1320**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 1320**, In memory of A. L. "Bubba" Everett, Jr.

**HR 1320** was unanimously adopted by a rising vote.

**HR 1314 - ADOPTED**  
(by McClendon)

Representative McClendon moved to suspend all necessary rules to take up and consider at this time **HR 1314**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 1314**, Honoring picante sauce as a True Texas Original and recognizing Texas as the Birthplace of Picante Sauce.

**HR 1314** was adopted without objection.

**HR 1323 - ADOPTED**  
(by Wise)

Representative Wise moved to suspend all necessary rules to take up and consider at this time **HR 1323**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 1323**, Congratulating Erin Duffy Wise on her birthday.

**HR 1323** was adopted without objection.

On motion of Representative Craddick, the names of all the members of the house were added to **HR 1323** as signers thereof.

**HR 1324 - ADOPTED**  
(by Wise)

Representative Wise moved to suspend all necessary rules to take up and consider at this time **HR 1324**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 1324**, Congratulating Miguel D. Wise III on his birthday.

**HR 1324** was adopted without objection.

On motion of Representative Raymond, the names of all the members of the house were added to **HR 1324** as signers thereof.

**HR 1325 - ADOPTED**  
(by Wise)

Representative Wise moved to suspend all necessary rules to take up and consider at this time **HR 1325**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 1325**, Honoring Mark Riborg Wise on the occasion of his eighth birthday.

**HR 1325** was adopted without objection.

On motion of Representative Gallego, the names of all the members of the house were added to **HR 1325** as signers thereof.

**HR 1326 - ADOPTED**  
(by Wise)

Representative Wise moved to suspend all necessary rules to take up and consider at this time **HR 1326**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 1326**, Honoring Zachary August Wise on the occasion of his sixth birthday.

**HR 1326** was adopted without objection.

On motion of Representative Hinojosa, the names of all the members of the house were added to **HR 1326** as signers thereof.

**HR 1322 - ADOPTED**  
(by Merritt)

Representative Merritt moved to suspend all necessary rules to take up and consider at this time **HR 1322**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 1322**, Honoring the city of Kilgore's "Turn Around Kilgore" program.

**HR 1322** was adopted without objection.

On motion of Representative Siebert, the names of all the members of the house were added to **HR 1322** as signers thereof.

**HR 1328 - ADOPTED**  
(by Greenberg)

Representative Greenberg moved to suspend all necessary rules to take up and consider at this time **HR 1328**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HR 1328**, In memory of Robert George "Bob" Kramer, Sr.

**HR 1328** was unanimously adopted by a rising vote.

**HCR 330 - ADOPTED**  
**(by Marchant)**

Representative Naishtat moved to suspend all necessary rules to take up and consider at this time **HCR 330**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

**HCR 330**

WHEREAS, **HB 1971** 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 75th Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to correct **HB 1971** as follows:

(1) In Article 1B.002(a)(14), Title 79, Revised Statutes, as added by SECTION 1 of the bill, immediately before the colon at the end of the introductory language of Paragraph (A), strike "that" and substitute "in connection with which".

(2) In Article 1F.103(b), Title 79, Revised Statutes, as added by SECTION 1 of the bill, strike "not to the time when" and substitute "not at the time when".

**HCR 330** was adopted without objection.

(Davis in the chair)

(Speaker in the chair)

**PROVIDING FOR ADJOURNMENT**

Representative McClendon moved that, pending the receipt of a message from the senate, the house adjourn until 1:00 p.m. tomorrow in memory of Ms. Carrie Hadrick, Representative Giddings' aunt.

The motion prevailed without objection.

**MESSAGE FROM THE SENATE**

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 4).

**ADJOURNMENT**

In accordance with a previous motion, the house, at 6:41 p.m., adjourned until 1:00 p.m. tomorrow.

---

**ADDENDUM**

---

**REFERRED TO COMMITTEES**

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were

today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

**List No. 1**

**HR 1276** (by Naishtat), Commemorating the Garza family reunion.  
To Rules & Resolutions.

**HR 1277** (by Naishtat), Recognizing September 25, 1998, as HealthExpo Day in Texas.  
To Rules & Resolutions.

**HR 1280** (by Christian), Congratulating Zerema Singson on winning the 1997 UIL Class 3A state spelling and vocabulary contest.  
To Rules & Resolutions.

**HR 1281** (by Craddick), Expressing the legislative intent of the rider to Article VI of **HB 1**.  
To Appropriations.

**HR 1283** (by Howard), Celebrating the first birthday of Austin David Howell.  
To Rules & Resolutions.

**HR 1292** (by Krusee), Congratulating Charles and Naomi Chadwick on the occasion of their 25th wedding anniversary.  
To Rules & Resolutions.

**HR 1294** (by Dukes), Commemorating the 20th anniversary of the death of Nathaniel H. Kindred.  
To Rules & Resolutions.

**HR 1295** (by Dukes), Honoring the fifth annual Women in Ministry Conference.  
To Rules & Resolutions.

**HR 1296** (by Brimer), In memory of Charlie R. Hillard.  
To Rules & Resolutions.

**SIGNED BY THE SPEAKER**

The following bills and resolutions were today signed in the presence of the house by the speaker:

**House List No. 77**

**HB 156, HB 381, HB 1228, HB 1362, HB 1445, HB 1476, HB 1662, HB 2295, HB 2324, HB 2592, HB 2705, HB 2798, HB 2799, HB 3249, HCR 239, HCR 275, HCR 280, HCR 290, HCR 298, HCR 306, HCR 310, HCR 311, HCR 313, HCR 317**

**Senate List No. 40**

**SB 99, SB 273, SB 294, SB 332, SB 352, SB 434, SB 497, SB 520, SB 586, SB 645, SB 1001, SB 1153, SB 1209, SB 1512, SB 1582, SB 1942, SB 1943, SB 1949**

## MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

### Message No. 1

MESSAGE FROM THE SENATE  
 SENATE CHAMBER  
 Austin, Texas  
 Saturday, May 31, 1997

The Honorable Speaker of the House  
 House Chamber  
 Austin, Texas

Mr. Speaker:

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

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**HCR 219** Gallego SPONSOR: Madla  
 In memory of United States Border Patrol Agent Jefferson Barr.

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

**SB 51** (viva-voce vote)

**SB 1715** (viva-voce vote)

**SB 1876** (viva-voce vote)

**SB 1910** (viva-voce vote)

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

### **SB 1486**

Senate Conferees: Bivins - Chair/Armbrister/Lucio/Nixon, Drew/Sibley/

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

### **HB 2384**

Senate Conferees: Fraser - Chair/Carona/Duncan/Lindsay/Patterson, Jerry/

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 4** (29 YEAS, 1 NAY)

**HB 298** (30 YEAS, 0 NAYS)

**HB 311** (30 YEAS, 0 NAYS)

**HB 768** (viva-voce vote)

**HB 2017** (30 YEAS, 0 NAYS)  
**HB 2339** (30 YEAS, 0 NAYS)  
**HB 2542** (viva-voce vote)  
**HB 2981** (viva-voce vote)  
**HB 3019** (viva-voce vote)  
**HJR 4** (27 YEAS, 3 NAYS)  
**SB 206** (viva-voce vote)  
**SB 381** (viva-voce vote)  
**SB 534** (30 YEAS, 0 NAYS)  
**SB 987** (30 YEAS, 0 NAYS)  
**SB 1907** (30 YEAS, 0 NAYS)

Respectfully,

Betty King  
Secretary of the Senate

**Message No. 2**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Saturday, May 31, 1997 - 2

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

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

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

**SB 17** (viva-voce vote)  
**SB 521** (viva-voce vote)

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

**HB 1542**  
Senate Conferees: Wentworth - Chair/Bivins/Brown/Lindsay/Lucio/

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 1028** (30 YEAS, 0 NAYS)



**HB 1200** (viva-voce vote)  
**HB 2088** (viva-voce vote)  
**HB 2394** (30 YEAS, 0 NAYS)  
**HB 3540** (30 YEAS, 0 NAYS)

Respectfully,

Betty King  
 Secretary of the Senate

**Message No. 3**

MESSAGE FROM THE SENATE  
 SENATE CHAMBER  
 Austin, Texas  
 Saturday, May 31, 1997 - 3

The Honorable Speaker of the House  
 House Chamber  
 Austin, Texas

Mr. Speaker:

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

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**HCR 322** Heflin SPONSOR: Ellis  
 Expressing appreciation to Dr. Glenn A. Goerke for his contributions to higher education in the state of Texas.

**HCR 324** Laney SPONSOR: Armbrister  
 Honoring James Nance on the occasion of his retirement from the Texas Legislative Council.

**SCR 112** Luna, Gregory  
 Honoring Guadalupe Arias Garcia on the occasion of her 75th birthday.

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**SB 30** (30 YEAS, 0 NAYS)  
**SB 359** (viva-voce vote)  
**SB 1355** (viva-voce vote)  
**SB 1419** (21 YEAS, 7 NAYS)

Respectfully,

Betty King  
 Secretary of the Senate

**Message No. 4**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Saturday, May 31, 1997 - 4

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

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

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**HCR 318** Alvarado SPONSOR: Madla  
In memory of the Honorable Ralph Webster Yarborough.

**HCR 320** Alvarado SPONSOR: Madla  
Congratulating former State Representative Karyne Jones Conley on her new position with SBC Telecommunications, Inc., in Washington, D.C.

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

**SB 299** (viva-voce vote)

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 318** (22 YEAS, 7 NAYS)

**HB 1230** (viva-voce vote)

**HB 1301** (viva-voce vote)

**HB 1941** (viva-voce vote)

**HB 2086** (30 YEAS, 0 NAYS)

**HB 2850** (30 YEAS, 0 NAYS)

**SB 20** (viva-voce vote)

**SB 148** (30 YEAS, 0 NAYS)

**SB 149** (30 YEAS, 0 NAYS)

**SB 1098** (viva-voce vote)

**SB 1311** (viva-voce vote)

THE SENATE HAS TAKEN THE FOLLOWING OTHER ACTION:

**HB 3263**  
DISCHARGED CONFEREES

Respectfully,

Betty King  
Secretary of the Senate

---

**APPENDIX**

---

**ENROLLED**

May 30 - **HB 156, HB 331, HB 381, HB 438, HB 591, HB 607, HB 623, HB 670, HB 677, HB 724, HB 1161, HB 1228, HB 1362, HB 1370, HB 1410, HB 1445, HB 1465, HB 1476, HB 1662, HB 1716, HB 1843, HB 1868, HB 1891, HB 2189, HB 2295, HB 2297, HB 2324, HB 2332, HB 2383, HB 2491, HB 2592, HB 2644, HB 2705, HB 2798, HB 2799, HB 3062, HB 3088, HB 3194, HB 3545, HB 3583, HB 3602, HCR 275, HCR 280, HCR 290, HCR 298, HCR 306, HCR 310, HCR 311, HCR 313, HCR 316, HCR 317**

**SENT TO THE GOVERNOR**

May 30 - **HB 787, HB 1062, HB 1133, HB 1144, HB 1572, HB 1706, HB 1855, HB 1917, HB 1937, HB 2005, HB 2018, HB 2067, HB 2082, HB 2084, HB 2096, HB 2099, HB 2101, HB 2115, HB 2157, HB 2397, HB 2424, HB 2438, HB 2462, HB 2469, HB 2502, HB 2506, HB 2512, HB 2555, HB 2573, HB 2584, HB 2587, HB 2606, HB 2745, HB 2747, HB 2750, HB 2807, HB 2830, HB 2856, HB 2873, HB 2875, HB 2887, HB 2899, HB 2900, HB 2915, HB 3037, HB 3048, HB 3059, HB 3063, HB 3075, HB 3092, HB 3104, HB 3158, HB 3161, HB 3224, HB 3266, HB 3345, HB 3440, HB 3441, HB 3478, HB 3513, HB 3517, HB 3530, HB 3538, HB 3550, HB 3556, HB 3570, HB 3574, HB 3576, HB 3586, HB 3588, HB 3589, HB 3592, HB 3597, HB 3603, HB 3605, HB 3609, HCR 14, HCR 26, HCR 45, HCR 67, HCR 82, HCR 85, HCR 116, HCR 118, HCR 124, HCR 143, HCR 202, HCR 213, HCR 261, HCR 265, HCR 272, HCR 277, HCR 292, HCR 297, HCR 299, HCR 301, HCR 304, HCR 307**

**SIGNED BY THE GOVERNOR**

May 30 - **HB 336, HB 480, HB 598, HB 1193, HB 1338, HB 2064, HB 2141, HB 2220, HB 2445, HB 2499, HB 2851, HB 3100, HB 3252, HB 3558, HCR 80, HCR 257, HCR 270, HCR 271, HCR 273, HCR 287**