

HOUSE JOURNAL

SEVENTY-FIFTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

EIGHTY-NINTH DAY — SUNDAY, JUNE 1, 1997

The house met at 1:00 p.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 624).

Present — Mr. Speaker; Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; 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; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; 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 — Corte.

Absent — Seaman.

The invocation was offered by John Sheppard of the sergeant-at-arms office, as follows:

Thank you, Mr. Speaker and members. As we bring to a close this 75th legislative session, we reflect back on friends made and friends lost during the last five months. It is important to remember though that smiles and personalities are fleeting, but our children will reap the seeds that this body has sown. It is for them that we should pray. For no matter our differences, certain things we share: we all love our children, and we all love Texas. If doing right by them remains foremost in your thoughts, you shall never go wrong. Amen.

LEAVE OF ABSENCE GRANTED

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

Corte on motion of Chisum.

HR 1331 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1331**, suspending the limitations on the conferees for **HB 1391**.

HR 1332 - ADOPTED
(by Madden)

Representative Madden moved to suspend all necessary rules to take up and consider at this time **HR 1332**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1332, Congratulating David Hammel, Robert Montgomery, and Bill Wade on being elected to the Parker City Council.

HR 1332 was adopted without objection.

HR 1333 - ADOPTED
(by Madden)

Representative Madden moved to suspend all necessary rules to take up and consider at this time **HR 1333**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1333, Congratulating Dr. Justin Wakeland on the occasion of his retirement as superintendent of schools with the Frisco Independent School District.

HR 1333 was adopted without objection.

HR 1334 - ADOPTED
(by Madden)

Representative Madden moved to suspend all necessary rules to take up and consider at this time **HR 1334**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1334, Recognizing the Honorable David Harvey.

HR 1334 was adopted without objection.

HR 1335 - ADOPTED
(by Madden)

Representative Madden moved to suspend all necessary rules to take up and consider at this time **HR 1335**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1335, Honoring Bill Collins and Mike Whitcomb for their service to the Wylie school board.

HR 1335 was adopted without objection.

HR 1336 - ADOPTED
(by Stiles)

Representative Stiles moved to suspend all necessary rules to take up and consider at this time **HR 1336**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1336, Honoring Jerry Fontenot for his years of service as a peace officer.

HR 1336 was adopted without objection.

HR 1321 - ADOPTED
(by Pickett)

Representative Pickett moved to suspend all necessary rules to take up and consider at this time **HR 1321**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1321, Commending Jetta Roberts, Vernon Haverstick, and Sally Johnson on their work with the Silver-Haired Legislature.

HR 1321 was adopted without objection.

HR 1317 - ADOPTED
(by Danburg)

Representative Danburg moved to suspend all necessary rules to take up and consider at this time **HR 1317**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1317, Recognizing the historic significance of the artesian well on the Capitol grounds.

HR 1317 was adopted without objection.

On motion of Representative Ramsay, the names of all the members of the house were added to **HR 1317** as signers thereof.

HCR 327 - ADOPTED
(by Driver)

Representative Driver moved to suspend all necessary rules to take up and consider at this time **HCR 327**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HCR 327, Designating the National Cheerleaders Association's State of Texas Cheerleading Championship as the Official State Cheerleading and Dance Championship of Texas.

HCR 327 was adopted without objection.

HR 1338 - ADOPTED**(by Solis)**

Representative Solis moved to suspend all necessary rules to take up and consider at this time **HR 1338**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1338, Congratulating Isabel and Michael Gregory Barberio on the birth of their son, Jeramy Joseph Barberio.

HR 1338 was adopted without objection.

HR 1339 - ADOPTED**(by Solis)**

Representative Solis moved to suspend all necessary rules to take up and consider at this time **HR 1339**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1339, Honoring Harlingen Mayor Bill Card.

HR 1339 was adopted without objection.

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.)

**PROVIDING FOR A CONGRATULATORY AND
MEMORIAL CALENDAR**

Representative Price moved to suspend all necessary rules to set a congratulatory and memorial calendar for 10 a.m. Monday, June 2.

The motion prevailed without objection.

HB 907 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Madden submitted the following conference committee report on **HB 907**:

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 907** 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.

Shapiro	Madden
Patterson	Finnell
Nixon	Counts
On the part of the Senate	On the part of the House

HB 907, A bill to be entitled An Act relating to the application of the professional prosecutors law to the criminal district attorney of Collin County.

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

SECTION 1. Section 46.002, Government Code, is amended to read as follows:

Sec. 46.002. PROSECUTORS SUBJECT TO CHAPTER. This chapter applies only to the following prosecutors:

(1) the district attorneys for the 2nd, 8th, 9th, 12th, 18th, 21st, 22nd, 23rd, 24th, 26th, 27th, 29th, 34th, 35th, 36th, 38th, 43rd, 47th, 49th, 51st, 52nd, 53rd, 63rd, 64th, 66th, 69th, 70th, 76th, 81st, 84th, 85th, 90th, 97th, 105th, 106th, 110th, 118th, 119th, 123rd, 142nd, 145th, 156th, 159th, 173rd, 196th, 198th, 216th, 220th, 229th, 235th, 253rd, 259th, 266th, 268th, 271st, 278th, 286th, 329th, 349th, and 355th judicial districts;

(2) the criminal district attorneys for the counties of Anderson, Austin, Bastrop, Bexar, Bowie, Brazoria, Caldwell, Calhoun, Cass, Collin, Deaf Smith, Denton, Eastland, Galveston, Gregg, Harrison, Hays, Hidalgo, Jasper, Jefferson, Kaufman, Lubbock, McLennan, Navarro, Panola, Polk, Randall, Rockwall, San Jacinto, Smith, Tarrant, Taylor, Tyler, Upshur, Van Zandt, Victoria, Walker, Waller, Wichita, Wood, and Yoakum; and

(3) the county attorneys performing the duties of district attorneys in the counties of Andrews, Callahan, Cameron, Castro, Ellis, Falls, Fannin, Freestone, Grayson, Lamar, Lamb, Lampasas, Lee, Limestone, Marion, Milam, Morris, Ochiltree, Orange, Red River, Robertson, Rusk, Terry, Webb, and Willacy.

SECTION 2. Section 44.143, Government Code, is amended to read as follows:

Sec. 44.143. COLLIN COUNTY. (a) The criminal district attorney of Collin County shall attend each term and session of the district courts in Collin County held for the transaction of criminal business. He shall represent the state in all criminal and civil cases in the courts in the county unless otherwise provided by law.

(b) The criminal district attorney has all the powers, duties, and privileges in Collin County relating to criminal or civil matters involving the county or state that are conferred by law on county and district attorneys in the various counties and districts.

(c) ~~[The criminal district attorney may not engage in the private practice of law.~~

~~[(d) The Commissioners Court of Collin County may supplement the compensation paid by the state to the criminal district attorney.~~

~~[(e) Collin County is not entitled to the benefits of Subchapter C, Chapter 41, in addition to the state compensation provided by Subsection (d).~~

[✚] A vacancy in the office of criminal district attorney is filled by appointment by the Commissioners Court of Collin County. The appointee holds office until the next general election.

SECTION 3. This Act takes effect September 1, 1997.

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.

(Thompson in the chair)

Representative Madden moved to adopt the conference committee report on **HB 907**.

The motion prevailed.

HB 951 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative S. Turner submitted the following conference committee report on **HB 951**:

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 951** 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.

Cain	S. Turner
Ellis	Greenberg
Bivins	Maxey
Moncrief	Hilbert
Wentworth	

On the part of the Senate On the part of the House

HB 951, A bill to be entitled An Act relating to the Texas open records law.

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

SECTION 1. Section 552.108, Government Code, is amended to read as follows:

Sec. 552.108. EXCEPTION: CERTAIN LAW ENFORCEMENT AND PROSECUTORIAL INFORMATION. (a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution;

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in the conviction or deferred adjudication; or

(3) the internal record or notation:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

SECTION 2. Section 552.221(d), Government Code, is amended to read as follows:

(d) If an officer for public information cannot produce public information for inspection or duplication within 10 ~~business~~ calendar days after the date the information is requested under Subsection (a), the officer shall certify that fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

SECTION 3. Section 552.230, Government Code, is amended to read as follows:

Sec. 552.230. RULES OF PROCEDURE FOR INSPECTION AND COPYING OF PUBLIC INFORMATION. (a) A governmental body may promulgate reasonable rules of procedure under which public information may be inspected and copied efficiently, safely, and without delay.

(b) A rule promulgated under Subsection (a) may not be inconsistent with any provision of this chapter.

SECTION 4. Subchapter F, Chapter 552, Government Code, is amended to read as follows:

SUBCHAPTER F. CHARGES FOR PROVIDING [COST-OF] COPIES OF PUBLIC INFORMATION

Sec. 552.261. CHARGE FOR PROVIDING [DETERMINING COST-OF] COPIES OF PUBLIC INFORMATION. (a) The charge for providing [cost of obtaining] a copy of public information shall be an amount that reasonably includes all costs related to reproducing the public information, including costs

of materials, labor, and overhead. If a request is for 50 or fewer pages of paper records, the charge for providing the copy of the public information may not include costs of materials, labor, or overhead, but shall be limited to the photocopying costs, unless the pages to be photocopied [~~copied~~] are located in:

- (1) more than one building; or
- (2) a remote storage facility.

(b) If the charge for providing a copy of public information includes costs of labor, the requestor may require the governmental body's officer for public information or the officer's agent to provide the requestor with a written statement as to the amount of time that was required to produce and provide the copy. The statement must be signed by the officer for public information or the officer's agent and the officer's or the agent's name must be typed or legibly printed below the signature. A charge may not be imposed for providing the written statement to the requestor.

~~[Sec. 552.2611. Charges for Public Records by State Agency. (a) The General Services Commission by rule shall specify the methods and procedures that a state agency may use in determining the amounts that the agency should charge to recover the full cost to the agency of providing copies of public records under this chapter.~~

~~[(b) Each state agency by rule shall specify the charges the agency will make for copies of public records. A state agency may establish a charge for a copy of a public record that is equal to the full cost to the agency of providing the copy.~~

~~[(c) A state agency shall pay to the comptroller for deposit in an unobligated account designated by the comptroller in the general revenue fund all money collected by the agency for providing copies of public records.~~

~~[(d) Of the total amount of money deposited in the general revenue fund under Subsection (c), the comptroller may transfer 25 percent of the money collected for providing copies of mailing lists and 15 percent of the money collected for providing copies of other public records to the general revenue fund.~~

~~[(e) The comptroller shall adopt rules to administer Subsections (c) and (d).~~

~~[(f) In this section, "state agency" has the meaning assigned by Section 1.02, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes).]~~

Sec. 552.262. RULES OF THE GENERAL SERVICES COMMISSION.

(a) The General Services Commission shall adopt rules for use by each governmental body in determining charges for providing copies of public information under this subchapter. The rules adopted by the General Services Commission shall be used by each governmental body in determining charges for providing copies of public information, except to the extent that other law provides for charges for specific kinds of public information. The charges for providing copies of public information may not be excessive and may not exceed the actual cost of producing the information. A governmental body, other than an agency of state government, may determine its own charges for providing copies of [~~producing~~] public information but shall not charge an amount that is greater [~~more~~] than [~~a~~] 25 percent more than the amount [~~variance from the rules~~] established by the General Services Commission unless the governmental body requests an exemption under Subsection (c).

(b) The rules of the General Services Commission shall prescribe the methods for computing the charges for providing copies of public information in paper, electronic, and other kinds of media. The rules shall establish costs for various components of charges for providing copies of public information that shall be used by each governmental body in providing copies of public information.

(c) A governmental body may request that it be exempt from part or all of the rules adopted by the General Services Commission for determining charges for providing copies of public information. The request must be made in writing to the General Services Commission and must state the reason for the exemption. If the General Services Commission determines that good cause exists for exempting a governmental body from a part or all of the rules, the commission shall give written notice of the determination to the governmental body within 90 days of the request. On receipt of the determination, the governmental body may amend its charges for providing copies of public information according to the determination of the General Services Commission.

(d) The General Services Commission shall publish annually in the Texas Register a list of the governmental bodies that have authorization from the General Services Commission to adopt any modified rules for determining the cost of providing copies of public information.

(e) The rules of the General Services Commission do not apply to a state governmental body that is not a state agency for purposes of Subtitle D, Title 10.

Sec. 552.263. BOND FOR PAYMENT OF COSTS OR CASH PREPAYMENT FOR PREPARATION OF COPY OF PUBLIC INFORMATION. (a) An officer for public information or the officer's agent may require a deposit or bond for payment of anticipated costs for the preparation of a copy of public information if the charge for providing the copy of the public information specifically requested by the requestor is estimated by the governmental body to exceed \$100.

(b) The officer for public information or the officer's agent may not require a deposit or bond be paid under Subsection (a) as a down payment for copies of public information that the requestor may request in the future.

Sec. 552.264. COPY OF PUBLIC INFORMATION REQUESTED BY MEMBER OF LEGISLATURE. One copy of public information that is requested from a state agency by a member of the legislature under Section 552.008 [~~in the performance of the member's duties~~] shall be provided without charge.

Sec. 552.265. CHARGE FOR CERTIFIED RECORD PROVIDED BY DISTRICT OR COUNTY CLERK. The charge for providing a copy made by [~~in~~] a district or county clerk's office shall [~~may not~~] be [~~more than the actual cost of copies, as provided by Sections 552.261 and 552.262, unless a certified record;~~] the charge provided [~~cost of which is set~~] by law[~~- is requested~~].

Sec. 552.266. CHARGE FOR COPY OF PUBLIC INFORMATION PROVIDED BY MUNICIPAL COURT CLERK. The charge for providing a copy made by a municipal court clerk shall be the charge provided by municipal ordinance.

Sec. 552.267. WAIVER OR REDUCTION OF CHARGE [FEE] FOR PROVIDING COPY OF PUBLIC INFORMATION. (a) A governmental body shall provide [~~furnish~~] a copy of public information without charge or at a reduced charge if the governmental body determines that waiver or reduction

of the charge [fee] is in the public interest because providing the copy of [furnishing] the information primarily benefits the general public.

(b) If the cost to a governmental body of processing the collection of a charge for providing a copy of public information will exceed the amount of the charge, the governmental body may waive the charge.

Sec. 552.268. EFFICIENT USE OF PUBLIC RESOURCES. A governmental body shall make reasonably efficient use of supplies and other resources to avoid excessive reproduction costs.

Sec. 552.269. OVERCHARGE OR OVERPAYMENT FOR COPY OF PUBLIC INFORMATION. (a) A person who believes the person has been overcharged for being provided with a copy of public information may complain to the General Services Commission in writing of the alleged overcharge, setting forth the reasons why the person believes the charges are excessive. The General Services Commission shall review the complaint and make a determination in writing as to the appropriate charge for providing the copy of the requested information. The governmental body shall respond to the General Services Commission to any written questions asked of the governmental body by the commission regarding the charges [~~made~~] for providing the copy of the public information. The response must be made to the General Services Commission within 10 days after the date the questions are received by the governmental body. If the General Services Commission determines that a governmental body has overcharged for providing the copy of requested public information, the governmental body shall promptly adjust its charges in accordance with the determination of the General Services Commission.

(b) A person who overpays for a copy of public information because a governmental body refuses or fails to follow the rules for charges adopted by the General Services Commission is entitled to recover three times the amount of the overcharge if the governmental body did not act in good faith in computing the costs.

Sec. 552.270. CHARGE FOR [COST OF] GOVERNMENT PUBLICATION. (a) This [The cost provisions of this] subchapter does [do] not apply to a publication that is compiled and printed by or for a governmental body for public dissemination. If the cost of the publication is not determined by state law, a governmental body may determine the charge [~~to be made~~] for providing the publication.

(b) This section does not prohibit a governmental body from providing a publication free of charge if state law does not require that a certain charge be made.

Sec. 552.271. INSPECTION OF PUBLIC INFORMATION IN PAPER RECORD IF COPY NOT REQUESTED. A charge may not be imposed for making available for inspection any public information that exists in a paper record, except that if a requested page contains confidential information that must be edited from the record before the information can be made available for inspection, the governmental body may charge for the cost of making a photocopy [copy] of the page from which confidential information must be edited. No charge other than the cost of the photocopy [copy] may be imposed.

Sec. 552.272. Inspection of Electronic Record if Copy Not Requested. (a) In response to a request to inspect information that exists in an electronic

medium and that is not available directly on-line to the requestor, a charge may not be imposed for access to the information, unless complying with the request will require programming or manipulation of data. If programming or manipulation of data is required, the governmental body shall notify the requestor before assembling the information and provide the requestor with an estimate of charges that will be imposed to make the information available. A charge under this section must be assessed in accordance with this subchapter.

(b) If public information exists in an electronic form on a computer owned or leased by a governmental body and if the public has direct access to that computer through a computer network or other means, the electronic form of the information may be electronically copied from that computer without charge if accessing the information does not require processing, programming, or manipulation on the government-owned or government-leased computer before the information is copied.

(c) If public information exists in an electronic form on a computer owned or leased by a governmental body and if the public has direct access to that computer through a computer network or other means and the information requires processing, programming, or manipulation before it can be electronically copied, a governmental body may impose charges in accordance with this subchapter.

(d) If information is created or kept in an electronic form, a governmental body is encouraged to explore options to separate out confidential information and to make public information available to the public through electronic access through a computer network or by other means.

Sec. 552.274 [~~552.270~~]. REPORT BY STATE AGENCY ON COST OF COPIES. (a) Not later than September [~~December~~] 1 of each odd-numbered [~~even-numbered~~] year, each state agency shall provide [~~file a report with~~] the [~~Legislative Budget Board, comptroller, and~~] General Services Commission detailed information, for use by the commission in preparing the report required by Sections 2(c) and (d), Chapter 428, Acts of the 73rd Legislature, Regular Session, 1993, describing the agency's procedures for charging and collecting fees for providing copies of public information [~~records~~].

(b) In this section, "state agency" has the meaning assigned by Sections 2151.002(2)(A) and (C) [~~Sections 1.02(2)(A) and (C), State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes)~~].

SECTION 5. Section 552.301, Government Code, is amended to read as follows:

Sec. 552.301. REQUEST FOR ATTORNEY GENERAL DECISION. (a) A governmental body that receives a written request for information that it wishes to withhold from public disclosure and that it considers to be within one of the exceptions under Subchapter C must ask for a decision from the attorney general about whether the information is within that exception if there has not been a previous determination about whether the information falls within one of the exceptions. The governmental body must ask for the attorney general's decision and state the exceptions that apply within a reasonable time but not later than the 10th business [~~calendar~~] day after the date of receiving the written request. For purposes of this subchapter, a written request includes a request made in writing that is sent to the officer for public information, or

the person designated by that officer, by electronic mail or facsimile transmission.

(b) A governmental body that requests an attorney general decision under Subsection (a) must within a reasonable time but not later than the 15th business ~~calendar~~ day after the date of receiving the written request:

(1) submit to the attorney general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld;

(2) submit to the attorney general a copy of the written request for information;

(3) submit to the attorney general a copy of the specific information requested, or submit representative samples of the information if a voluminous amount of information was requested; and

(4) label that copy of the specific information, or of the representative samples, to indicate which exceptions apply to which parts of the copy.

SECTION 6. Section 552.027, Government Code, as added by Chapter 302, Acts of the 74th Legislature, Regular Session, 1995, is renumbered as Section 552.028, Government Code.

SECTION 7. Section 552.124, Government Code, as added by Chapter 219, Acts of the 74th Legislature, Regular Session, 1995, is renumbered as Section 552.125, Government Code.

SECTION 8. Section 552.124, Government Code, as added by Chapter 260, Acts of the 74th Legislature, Regular Session, 1995, is renumbered as Section 552.126, Government Code.

SECTION 9. Sections 552.324 and 552.325, Government Code, as added by Chapter 578, Acts of the 74th Legislature, Regular Session, 1995, are repealed because those sections duplicate the same Government Code sections as added by Chapter 1035, Acts of the 74th Legislature, Regular Session, 1995.

SECTION 10. Section 3, Chapter 428, Acts of the 73rd Legislature, Regular Session, 1993, is repealed.

SECTION 11. (a) This Act takes effect September 1, 1997.

(b) To the extent of any conflict, this Act prevails over another Act of the 75th Legislature, Regular Session, 1997, relating to nonsubstantive additions to and corrections in enacted codes.

(c) The change in law made by this Act to Section 552.108, Government Code, applies to information, records, and notations collected, made, assembled, or maintained on, before, or after the effective date of this Act.

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 S. Turner moved to adopt the conference committee report on **HB 951**.

The motion prevailed. (Keel and Talton recorded voting no)

STATEMENT BY REPRESENTATIVE KEEL

I voted "no" on **HB 951** because unnecessary and improper exposure of files of prosecuting attorneys jeopardizes the rights of crime victims and is counter-productive to the investigation of criminal cases.

Keel

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. 78 and Senate List No. 41).

(Speaker in the chair)

HB 972 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative J. Jones submitted the following conference committee report on **HB 972**:

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 972** 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.

Gallegos	J. Jones
Moncrief	Driver
Patterson	Hodge
On the part of the Senate	On the part of the House

HB 972, A bill to be entitled An Act relating to systems for providing access to driver's license record information held by the Department of Public Safety.

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

SECTION 1. Subchapter C, Chapter 521, Transportation Code, is amended by adding Sections 521.055 and 521.056 to read as follows:

Sec. 521.055. ESTABLISHMENT OF INTERACTIVE SYSTEM. (a) The department may establish a system, separate from the department's mainframe computer, that will allow interactive access to certain driver's license record information.

(b) The system may provide for the release of the following information:

- (1) the status check described in Section 521.045; and
- (2) the three-year driving record under Section 521.046.

(c) The fee for a status check under Subsection (b)(1) is \$2.50. The fee for a three-year driving record under Subsection (b)(2) is \$4.50.

(d) Fifty cents of each fee collected under Subsection (c) shall be deposited

in a special account in the general revenue fund that may be appropriated only to the department for administration of this chapter.

(e) The department may contract with private vendors as necessary to implement this section.

(f) The department may adopt rules as necessary to administer this section.

Sec. 521.056. NATIONAL DRIVER REGISTER. (a) The department may process file check requests under the National Driver Register on behalf of current or prospective employers of individuals employed or seeking employment as operators of motor vehicles or railway locomotive operators if the individual:

(1) has given written consent to the release of the information; and

(2) has a license in this state.

(b) The fee for a request under Subsection (a) is \$4.

(c) The department shall forward a request made under Subsection (a) directly to the current or prospective employer.

(d) The department shall assist and provide procedures for an individual to obtain information from the National Driver Register on the individual's own driving record. The department may by rule establish a reasonable fee for this service, in conformity with the policies of the National Driver Register.

(e) The department may adopt forms and rules as necessary to carry out the purposes of this section and comply with the policies of the National Driver Register.

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 J. Jones moved to adopt the conference committee report on **HB 972**.

A record vote was requested.

The motion prevailed by (Record 625): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Coleman; Cook; 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; 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; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; 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.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte.

Absent — Clark; Seaman.

(Seaman now present)

STATEMENT OF VOTE

When Record No. 625 was taken, I would have voted yes.

Seaman

HB 1150 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Greenberg submitted the following conference committee report on **HB 1150**:

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 1150** 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.

Shapiro	Greenberg
Zaffirini	Goodman
Barrientos	Staples
Nelson	
Carona	
On the part of the Senate	On the part of the House

HB 1150, A bill to be entitled An Act relating to the notification of school personnel of the arrest or detention of a student and any subsequent disposition of that arrest or detention.

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

SECTION 1. Subsections (a), (b), (c), and (h), Article 15.27, Code of Criminal Procedure, are amended to read as follows:

(a) A law enforcement agency that arrests or takes into custody as provided by Chapter 52, Family Code, an individual who the agency [~~knows or~~] believes is enrolled as a student in a public primary or secondary school, for an offense listed in Subsection (h) of this article, shall attempt to ascertain whether the person is so enrolled. If the law enforcement agency ascertains that the individual is enrolled as a student in a public primary or secondary school, the

agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled [~~or believed to be enrolled~~] of that arrest or detention within 24 hours after the arrest or detention, or on the next school day. If the law enforcement agency cannot ascertain whether the individual is enrolled as a student, the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is believed to be enrolled of that arrest or detention within 24 hours after the arrest or detention, or on the next school day. If the individual is a student, the [The] superintendent shall promptly notify all instructional and support personnel who have regular contact with the student. All personnel shall keep the information received in this subsection confidential. The State Board for Educator Certification may revoke or suspend the certification of personnel who intentionally violate this subsection. Within seven days after the date the oral notice is given, the law enforcement agency shall mail written notification, marked "PERSONAL and CONFIDENTIAL" on the mailing envelope, to the superintendent or the person designated by the superintendent. The written notification must have the following printed on its face in large, bold letters: "WARNING: The information contained in this notice is intended only to inform appropriate school personnel of an arrest or detention of a student believed to be enrolled in this school. An arrest or detention should not be construed as proof that the student is guilty. Guilt is determined in a court of law. THE INFORMATION CONTAINED IN THIS NOTICE IS CONFIDENTIAL!"

(b) On conviction or on an adjudication of delinquent conduct of an individual enrolled as a student in a public primary or secondary school, for an offense or for any conduct listed in Subsection (h) of this article, the office of the prosecuting attorney acting in the case shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of the conviction or adjudication. Oral notification must be given within 24 hours of the time of the determination of guilt, or on the next school day. The superintendent shall promptly notify all instructional and support personnel who have regular contact with the student. Within seven days after the date the oral notice is given, the office of the prosecuting attorney shall mail written notice, which must contain a statement of the offense of which the individual is convicted or on which the adjudication is grounded.

(c) A parole or probation office having jurisdiction over a student described by Subsection (a), (b), or (e) of this article who transfers from a school or is subsequently removed from a school and later returned to a school or school district other than the one the student was enrolled in when the arrest, detention, conviction, or adjudication occurred shall notify the new school officials of the arrest or detention in a manner similar to that provided for by Subsection (a) or (e)(1) of this article, or of the conviction or delinquent adjudication in a manner similar to that provided for by Subsection (b) or (e)(2) of this article. The new school officials shall promptly notify all instructional and support personnel who have regular contact with the student.

(h) This article applies to:

(1) an offense under [~~listed in Section 8(c), Article 42.18, Code of~~

~~Criminal Procedure; reckless conduct, as described by] Section 19.02, 19.03, 19.04, 19.05, 20.02, 20.03, 20.04, 21.08, 21.11, 22.01, 22.011, 22.02, 22.021, 22.04, 22.05, [Penal Code; or a terroristic threat, as described by Section] 22.07, 28.02, 29.02, 29.03, 30.02, or 71.02, Penal Code;~~

(2) the unlawful use, sale, or possession of a controlled substance, drug paraphernalia, or marihuana, as defined by Chapter 481, Health and Safety Code;

(3) the unlawful possession of any of the weapons or devices listed in Sections 46.01(1)-(14) or (16), Penal Code; or a weapon listed as a prohibited weapon under Section 46.05, Penal Code; or

(4) a felony [criminal] offense in which a deadly weapon, as defined by Section 1.07, Penal Code, was used or exhibited [~~under Section 71.02, Penal Code~~].

SECTION 2. The change in law made by this Act applies beginning with the 1997-1998 school year.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Representative Greenberg moved to adopt the conference committee report on **HB 1150**.

A record vote was requested.

The motion prevailed by (Record 626): 147 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; 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; Price; 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.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte.

HB 1150 - STATEMENT OF LEGISLATIVE INTENT

The authors agree that the intent of the language in this bill, "regular contact with the student", refers to instructional and support personnel who have responsibility for supervision of the student.

Greenberg

HB 1550 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Goodman submitted the following conference committee report on **HB 1550**:

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 1550** 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.

Harris	Goodman
Cain	Hightower
Ellis	Naishtat
West	McClendon
Shapleigh	Williams
On the part of the Senate	On the part of the House

HB 1550, A bill to be entitled An Act relating to the juvenile justice system.

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

SECTION 1. Sections 51.03(a) and (b), Family Code, are amended to read as follows:

(a) Delinquent conduct is:

(1) conduct, other than a traffic offense, that violates a penal law of this state or of the United States punishable by imprisonment or by confinement in jail;

(2) conduct that violates a reasonable and lawful order of a juvenile court entered under Section 54.04 or 54.05 of this code, except an order prohibiting the following conduct:

(A) a violation of the penal laws of this state of the grade of misdemeanor that is punishable by fine only or a violation of the penal ordinances of any political subdivision of this state;

(B) the unexcused voluntary absence of a child from school;
or

(C) the voluntary absence of a child from his home without the consent of his parent or guardian for a substantial length of time or without intent to return; or

(3) conduct that violates a lawful order of a municipal court or justice court under circumstances that would constitute contempt of that court; ~~or~~

~~[(4) conduct that violates the laws of this state prohibiting driving while intoxicated or under the influence of intoxicating liquor (third or subsequent offense) or driving while under the influence of any narcotic drug or of any other drug to the degree that renders the child incapable of safely driving a vehicle (third or subsequent offense)].~~

(b) Conduct indicating a need for supervision is:

(1) subject to Subsection (f) of this section, conduct, other than a traffic offense, that violates:

(A) the penal laws of this state of the grade of misdemeanor that are punishable by fine only; or

(B) the penal ordinances of any political subdivision of this state;

(2) the unexcused voluntary absence of a child on 10 or more days or parts of days within a six-month period or three or more days or parts of days within a four-week period from school without the consent of his parents;

(3) the voluntary absence of a child from his home without the consent of his parent or guardian for a substantial length of time or without intent to return;

~~(4) [conduct which violates the laws of this state prohibiting driving while intoxicated or under the influence of intoxicating liquor (first or second offense) or driving while under the influence of any narcotic drug or of any other drug to a degree which renders him incapable of safely driving a vehicle (first or second offense);~~

~~[(5)]~~ conduct prohibited by city ordinance or by state law involving the inhalation of the fumes or vapors of paint and other protective coatings or glue and other adhesives and the volatile chemicals itemized in Section 484.002, Health and Safety Code;

(5) ~~[(6)]~~ an act that violates a school district's previously communicated written standards of student conduct for which the child has been expelled under Section ~~37.007~~ ~~[21.3011]~~, Education Code; or

~~(6) [(7)]~~ conduct that violates a reasonable and lawful order of a court entered under Section 264.305.

SECTION 2. Section 51.031, Family Code, is amended to read as follows:

Sec. 51.031. HABITUAL FELONY CONDUCT. (a) Habitual felony conduct is conduct violating a penal law of the grade of felony, other than a state jail felony, if:

(1) the child who engaged in the conduct has at least two previous final adjudications as having engaged in delinquent conduct violating a penal law of the grade of felony; ~~[and]~~

(2) the second previous final adjudication is for conduct that occurred after the date the first previous adjudication became final; and

(3) all appeals relating to the previous adjudications considered under Subdivisions (1) and (2) have been exhausted.

(b) For purposes of this section, an adjudication is final if the child is placed on probation or committed to the Texas Youth Commission.

(c) An adjudication based on conduct that occurred before January 1, 1996, may not be considered in a disposition made under this section.

SECTION 3. Chapter 51, Family Code, is amended by adding Section 51.0411 to read as follows:

Sec. 51.0411. JURISDICTION FOR TRANSFER OR RELEASE HEARING. The court retains jurisdiction over a person, without regard to the age of the person, who is referred to the court under Section 54.11 for transfer to the Texas Department of Criminal Justice or release under supervision.

SECTION 4. Chapter 51, Family Code, is amended by amending Section 51.09 and by adding Section 51.095 to read as follows:

Sec. 51.09. WAIVER OF RIGHTS. ~~[(a)]~~ Unless a contrary intent clearly appears elsewhere in this title, any right granted to a child by this title or by the constitution or laws of this state or the United States may be waived in proceedings under this title if:

- (1) the waiver is made by the child and the attorney for the child;
- (2) the child and the attorney waiving the right are informed of and understand the right and the possible consequences of waiving it;
- (3) the waiver is voluntary; and
- (4) the waiver is made in writing or in court proceedings that are recorded.

Sec. 51.095. ADMISSIBILITY OF A STATEMENT OF A CHILD.
(a) ~~[(b)]~~ Notwithstanding Section 51.09 ~~[any of the provisions of Subsection (a) of this section]~~, the statement of a child is admissible in evidence in any future proceeding concerning the matter about which the statement was given if:

(1) the statement is made in writing when the child is in a detention facility or other place of confinement or in the custody of an officer~~[-the statement is made in writing]~~ and:

(A) the statement shows that the child has at some time before ~~[prior to]~~ the making of the statement ~~[thereof]~~ received from a magistrate a warning that:

(i) ~~[(A)]~~ the child may remain silent and not make any statement at all and that any statement that the child makes may be used in evidence against the child;

(ii) ~~[(B)]~~ the child has the right to have an attorney present to advise the child either prior to any questioning or during the questioning;

(iii) ~~[(C)]~~ if the child is unable to employ an attorney, the child has the right to have an attorney appointed to counsel with the child before ~~[prior to]~~ or during any interviews with peace officers or attorneys representing the state; and

(iv) ~~[(D)]~~ the child has the right to terminate the interview at any time;

~~[(E) if the child is 14 years of age or older at the time of the violation of a penal law of the grade of capital felony, aggravated controlled substance felony, or felony of the first degree, or is 15 years of age or older at the time of the violation of a penal law of the grade of felony of the second or third degree or a state jail felony, the juvenile court may waive its jurisdiction and the child may be tried as an adult, except that if the child has previously been transferred to a district court or criminal district court for criminal proceedings and has violated a penal law of the grade of felony, the~~

juvenile court is required to waive its jurisdiction and the child can be tried as an adult;

~~[(F) the child may be sentenced to commitment in the Texas Youth Commission with a possible transfer to the institutional division or the pardons and paroles division of the Texas Department of Criminal Justice for a maximum term of 40 years for a capital felony, felony of the first degree, or aggravated controlled substance felony, 20 years for a felony of the second degree, or 10 years for a felony of the third degree if the child is found to have engaged in habitual felony conduct by violating a penal law of the grade of felony, other than a state jail felony, if the child has at least two previous adjudications as having engaged in delinquent conduct violating a penal law of the grade of felony and the second previous adjudication is for conduct that occurred after the date the first previous adjudication became final, alleged in a petition approved by a grand jury, or if the child is found to have engaged in delinquent conduct, alleged in a petition approved by a grand jury, that included:~~

~~[(i) murder;~~

~~[(ii) capital murder;~~

~~[(iii) aggravated kidnapping;~~

~~[(iv) sexual assault or aggravated sexual assault;~~

~~[(v) aggravated robbery;~~

~~[(vi) aggravated assault;~~

~~[(vii) injury to a child, elderly individual, or disabled individual that is punishable as a felony, other than a state jail felony, under Section 22.04, Penal Code;~~

~~[(viii) deadly conduct defined by Section 22.05(b), Penal Code (discharging firearm at persons or certain objects);~~

~~[(ix) an offense that is a felony of the first degree or an aggravated controlled substance felony under Subchapter D, Chapter 481, Health and Safety Code (certain offenses involving controlled substances);~~

~~[(x) criminal solicitation;~~

~~[(xi) indecency with a child that is punishable under Section 21.11(a)(1), Penal Code;~~

~~[(xii) criminal solicitation of a minor (Section 15.031, Penal Code); or~~

~~[(xiii) criminal attempt to commit any of the offenses listed in Section 36(a)(1), Article 42.12, Code of Criminal Procedure, which include murder, capital murder, indecency with a child, aggravated kidnapping, aggravated sexual assault, and aggravated robbery; and]~~

(B) and:

(i) [(G)] the statement must be signed in the presence of a magistrate by the child with no law enforcement officer or prosecuting attorney present, except that a magistrate may require a bailiff or a law enforcement officer if a bailiff is not available to be present if the magistrate determines that the presence of the bailiff or law enforcement officer is necessary for the personal safety of the magistrate or other court personnel, provided that the bailiff or law enforcement officer may not carry a weapon in the presence of the child; and

(ii) ~~the~~ ~~[-The]~~ magistrate must be fully convinced that the child understands the nature and contents of the statement and that the child is signing the same voluntarily, and if ~~[-If such]~~ a statement is taken, the magistrate must ~~[shall]~~ sign a written statement verifying the foregoing requisites have been met; [-]

(C) ~~the~~ ~~[The]~~ child [must] knowingly, intelligently, and voluntarily waives ~~[waive]~~ these rights before ~~[prior to]~~ and during the making of the statement and signs ~~[sign]~~ the statement in the presence of a magistrate; and

(D) ~~the~~ ~~magistrate~~ certifies ~~[who must certify]~~ that the ~~magistrate~~ ~~[he]~~ has examined the child independent of any law enforcement officer or prosecuting attorney, except as required to ensure the personal safety of the magistrate or other court personnel, and has determined that the child understands the nature and contents of the statement and has knowingly, intelligently, and voluntarily waived these rights; [-]

(2) the statement is ~~[it be]~~ made orally and the child makes a statement of facts or circumstances that are found to be true, which conduct tends to establish his guilt, such as the finding of secreted or stolen property, or the instrument with which he states the offense was committed; [-]

(3) the statement was res gestae of the delinquent conduct or the conduct indicating a need for supervision or of the arrest; [-]

~~[(c) A warning under Subsection (b)(1)(E) or (b)(1)(F) is required only when applicable to the facts of the case. A failure to warn a child under Subsection (b)(1)(E) does not render a statement made by the child inadmissible unless the child is transferred to a district court under Section 54.02. A failure to warn a child under Subsection (b)(1)(F) does not render a statement made by the child inadmissible unless the state proceeds against the child on a petition approved by a grand jury under Section 53.045.]~~

~~(4) the statement is made [(d) This section does not preclude the admission of a statement made by the child if:~~

~~[(1) the child makes the statement]:~~

~~(A) in open court at the child's adjudication hearing;~~

~~(B) before a grand jury considering a petition, under Section 53.045 [of this code], that the child engaged in delinquent conduct; or~~

~~(C) at a preliminary hearing concerning the child held in compliance with this code, other than at a detention hearing under Section 54.01 [of this code]; or~~

(5) the statement is made orally when the child is in a detention facility or other place of confinement or in the custody of an officer and the statement is recorded by an electronic recording device, including a device that records images, and:

(A) before making the statement, the child is given the warning described by Subdivision (1)(A) by a magistrate, the warning is a part of the recording, and this child knowingly, intelligently, and voluntarily waives each right stated in the warning;

(B) the recording device is capable of making an accurate recording, the operator of the device is competent to use the device, the recording is accurate, and the recording has not been altered;

(C) each voice on the recording is identified; and
(D) not later than the 20th day before the date of the proceeding, the attorney representing the child is given a complete and accurate copy of each recording of the child made under this subdivision.

(b) This section and Section 51.09 do not preclude the admission of a statement made by the child if:

(1) [(2)] the statement does not stem from custodial interrogation; or

(2) [(3)] without regard to whether the statement stems from custodial interrogation, the statement is voluntary and has a bearing on the credibility of the child as a witness.

(c) An electronic recording of a child's statement made under Subsection (a)(5) shall be preserved until all juvenile or criminal matters relating to any conduct referred to in the statement are final, including the exhaustion of all appeals, or barred from prosecution.

SECTION 5. Section 51.13(d), Family Code, is amended to read as follows:

(d) An adjudication under Section 54.03 that a child engaged in conduct that occurred on or after January 1, 1996, and that constitutes a felony offense resulting in commitment to the Texas Youth Commission under Section 54.04(d)(2), (d)(3), or (m) or 54.05(f) is a final felony conviction only for the purposes of Sections 12.42(a)-(c) and (e), Penal Code.

SECTION 6. Chapter 51, Family Code, is amended by adding Section 51.19 to read as follows:

Sec. 51.19. LIMITATION PERIODS. (a) The limitation periods and the procedures for applying the limitation periods under Chapter 12, Code of Criminal Procedure, and other statutory law apply to proceedings under this title.

(b) For purposes of computing a limitation period, a petition filed in juvenile court for a transfer or an adjudication hearing is equivalent to an indictment or information and is treated as presented when the petition is filed in the proper court.

(c) The limitation period is two years for an offense or conduct that is not given a specific limitation period under Chapter 12, Code of Criminal Procedure, or other statutory law.

SECTION 7. Section 53.013, Family Code, is amended to read as follows:

Sec. 53.013. PROGRESSIVE SANCTIONS PROGRAM. (a) Each juvenile board may adopt a progressive sanctions program using the guidelines for progressive sanctions in Chapter 59.

(b) A juvenile court or probation department that deviates from the guidelines under Section 59.003 shall state in writing the reasons for the deviation and submit the statement to the juvenile board regardless of whether the juvenile board has adopted a progressive sanctions program.

SECTION 8. Section 53.045(a), Family Code, is amended to read as follows:

(a) Except as provided by Subsection (e) [of this section], the prosecuting attorney may refer the petition to the grand jury of the county in which the court in which the petition is filed presides if the petition alleges that the child engaged in delinquent conduct that constitutes habitual felony conduct as

described by Section 51.031 or that included the violation of any of the following provisions:

- (1) Section 19.02, Penal Code (murder);
- (2) Section 19.03, Penal Code (capital murder);
- (3) Section 20.04, Penal Code (aggravated kidnapping);
- (4) Section 22.011, Penal Code (sexual assault) or Section 22.021, Penal Code (aggravated sexual assault);
- (5) Section 22.02, Penal Code (aggravated assault);
- (6) Section 29.03, Penal Code (aggravated robbery);
- (7) Section 22.04, Penal Code (injury to a child, elderly individual, or disabled individual), if the offense is punishable as a felony, other than a state jail felony;
- (8) Section 22.05(b), Penal Code (felony deadly conduct involving discharging a firearm);
- (9) Subchapter D, Chapter 481, Health and Safety Code, if the conduct constitutes a felony of the first degree or an aggravated controlled substance felony (certain offenses involving controlled substances);
- (10) Section 15.03, Penal Code (criminal solicitation);
- (11) Section 21.11(a)(1), Penal Code (indecenty with a child);
- (12) Section 15.031, Penal Code (criminal solicitation of a minor); ~~or~~
- (13) Section 15.01, Penal Code (criminal attempt), if the offense attempted was an offense under Section 19.02, Penal Code (murder) or Section 19.03, Penal Code (capital murder), or an offense listed by Section 3g(a)(1), Article 42.12, Code of Criminal Procedure; or
- (14) Section 28.02, Penal Code (arson), if bodily injury or death is suffered by any person by reason of the commission of the conduct.

SECTION 9. Section 54.01(e), Family Code, is amended to read as follows:

(e) At the conclusion of the hearing, the court shall order the child released from detention unless it finds that:

- (1) he is likely to abscond or be removed from the jurisdiction of the court;
- (2) suitable supervision, care, or protection for him is not being provided by a parent, guardian, custodian, or other person;
- (3) he has no parent, guardian, custodian, or other person able to return him to the court when required;
- (4) he [~~is accused of committing a felony offense and~~] may be dangerous to himself or may threaten the safety of the public [~~others~~] if released; or
- (5) he has previously been found to be a delinquent child or has previously been convicted of a penal offense punishable by a term in jail or prison and is likely to commit an offense if released.

SECTION 10. Section 54.03, Family Code, is amended by adding Subsections (i) and (j) to read as follows:

(i) In order to preserve for appellate or collateral review the failure of the court to provide the child the explanation required by Subsection (b), the attorney for the child must comply with Rule 52(a), Texas Rules of Appellate Procedure, before testimony begins or, if the adjudication is uncontested, before the child pleads to the petition or agrees to a stipulation of evidence.

(j) When the state and the child agree to the disposition of the case, in whole or in part, the prosecuting attorney shall inform the court of the agreement between the state and the child. The court shall inform the child that the court is not required to accept the agreement. The court may delay a decision on whether to accept the agreement until after reviewing a report filed under Section 54.04(b). If the court decides not to accept the agreement, the court shall inform the child of the court's decision and give the child an opportunity to withdraw the plea or stipulation of evidence. If the court rejects the agreement, no document, testimony, or other evidence placed before the court that relates to the rejected agreement may be considered by the court in a subsequent hearing in the case. A statement made by the child before the court's rejection of the agreement to a person writing a report to be filed under Section 54.04(b) may not be admitted into evidence in a subsequent hearing in the case. If the court accepts the agreement, the court shall make a disposition in accordance with the terms of the agreement between the state and the child.

SECTION 11. Section 54.04(d), Family Code, is amended to read as follows:

(d) If the court or jury makes the finding specified in Subsection (c) [~~of this section~~] allowing the court to make a disposition in the case:

(1) the court or jury may, in addition to any order required or authorized under Section 54.041 or 54.042 [~~of this code~~], place the child on probation on such reasonable and lawful terms as the court may determine:

(A) in his own home or in the custody of a relative or other fit person; or

(B) subject to the finding under Subsection (c) [~~of this section~~] on the placement of the child outside the child's home, in:

(i) a suitable foster home; or

(ii) a suitable public or private institution or agency, except the Texas Youth Commission; [~~or~~

~~[(C) after an adjudication that the child engaged in delinquent conduct and subject to the finding under Subsection (c) on the placement of the child outside the child's home, in an intermediate sanction facility operated under Chapter 61, Human Resources Code;]~~

(2) if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct and if the petition was not approved by the grand jury under Section 53.045 [~~of this code~~], the court may commit the child to the Texas Youth Commission without a determinate sentence;

(3) if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct that included a violation of a penal law listed in Section 53.045(a) [~~of this code~~] and if the petition was approved by the grand jury under Section 53.045 [~~of this code~~], the court or jury may sentence the child to commitment in the Texas Youth Commission with a possible transfer to the institutional division or the pardons and paroles division of the Texas Department of Criminal Justice for a term of:

(A) not more than 40 years if the conduct constitutes:

(i) a capital felony;

(ii) a felony of the first degree; or

(iii) an aggravated controlled substance felony;
 (B) not more than 20 years if the conduct constitutes a felony of the second degree; or
 (C) not more than 10 years if the conduct constitutes a felony of the third degree;

(4) the court may assign the child an appropriate sanction level and sanctions as provided by the assignment guidelines in Section 59.003; or

(5) if applicable, the court or jury may make a disposition under Subsection (m) ~~[of this section]~~.

SECTION 12. Section 54.08, Family Code, is amended to read as follows:

Sec. 54.08. PUBLIC ACCESS TO COURT HEARINGS. (a) Except as provided by this section ~~[Subsection (b)]~~, the court shall open hearings under this title to the public unless the court, for good cause shown, determines that the public should be excluded.

(b) The court may not prohibit a person who is a victim of the conduct of a child, or the person's family, from personally attending a hearing under this title relating to the conduct by the child unless the victim or member of the victim's family is to testify in the hearing or any subsequent hearing relating to the conduct and the court determines that the victim's or family member's testimony would be materially affected if the victim or member of the victim's family hears other testimony at trial.

(c) If a child is under the age of 14 at the time of the hearing, the court shall close the hearing to the public unless the court finds that the interests of the child or the interests of the public would be better served by opening the hearing to the public.

(d) In this section, "family" has the meaning assigned by Section 71.003.

SECTION 13. Section 54.10(b), Family Code, is amended to read as follows:

(b) At the conclusion of the hearing, the referee shall transmit written findings and recommendations to the juvenile court judge. The juvenile court judge shall adopt, modify, or reject the referee's recommendations not later than the next working day after the day that the judge receives the recommendations [within 24 hours]. Failure to act within that time [In the same case of a detention hearing as authorized by Section 54.01 of this code, the failure of the juvenile court to act within 24 hours] results in release of the child by operation of law and a recommendation that the child be released operates to secure his immediate release subject to the power of the juvenile court judge to modify or reject that recommendation.

SECTION 14. Section 55.03(a), Family Code, is amended to read as follows:

(a) If a child is found or alleged to be unfit to proceed as a result of mental retardation under Section 55.04 ~~[of this chapter]~~ or is found not responsible for the child's conduct as a result of mental retardation under Section 55.05 ~~[of this chapter]~~, the court shall order a determination of mental retardation and an interdisciplinary team recommendation of the child, as provided by Chapter 593, Health and Safety Code, to be performed at a facility approved or operated by the Texas Department of Mental Health and Mental Retardation or at a community center established in accordance with Chapter 534, Health and

Safety Code. ~~[If the court finds that the results of such determination of mental retardation indicate a significantly subaverage general intellectual function of 2.5 or more standard deviations below the age-group mean for the tests used existing concurrently with significantly related deficits in adaptive behavior, the court shall initiate proceedings to order commitment of the child to a residential care facility, as that term is defined by Section 591.003, Health and Safety Code.]~~

SECTION 15. Section 56.01(b), Family Code, is amended to read as follows:

(b) The requirements governing an appeal are as in civil cases generally. When an appeal is sought by filing a notice of appeal, security for costs of appeal, or an affidavit of inability to pay the costs of appeal, and the filing is made in a timely fashion after the date the disposition order is signed, the appeal must include the juvenile court adjudication and all rulings contributing to that adjudication. An appeal of the adjudication may be sought notwithstanding that the adjudication order was signed more than 30 days before the date the notice of appeal, security for costs of appeal, or affidavit of inability to pay the costs of appeal was filed. A motion for new trial seeking to vacate an adjudication is timely if the motion is filed not later than the 30th day after the date on which the disposition order is signed.

SECTION 16. Section 58.001, Family Code, is amended by amending Subsection (c) and adding Subsections (d)-(f) to read as follows:

(c) A law enforcement agency may forward information, including photographs and fingerprints, relating to a child who has been detained or taken into custody by the agency to the Department of Public Safety ~~[of the State of Texas]~~ for inclusion in the juvenile justice information system created under Subchapter B only if the child is referred to juvenile court on or before the 10th day after the date the child is detained or taken into custody. If the child is not referred to juvenile court within that time, the law enforcement agency shall destroy all information, including photographs and fingerprints, relating to the child unless the child is placed in a first offender program under Section 52.031 or on informal disposition under Section 52.03. The law enforcement agency may not forward any information to the Department of Public Safety ~~[of the State of Texas]~~ relating to the child while the child is in a first offender program under Section 52.031, or during the 90 days following successful completion of the program or while the child is on informal disposition under Section 52.03. Except as provided by Subsection (f), after the date the child completes an informal disposition under Section 52.03 or after the 90th day after [On successful completion by] the date the child successfully completes [of] a first offender program under Section 52.031 [or informal disposition under Section 52.03], the law enforcement agency shall destroy all information, including photographs and fingerprints, relating to the child.

(d) If information relating to a child is contained in a document that also contains information relating to an adult and a law enforcement agency is required to destroy all information relating to the child under this section, the agency shall alter the document so that the information relating to the child is destroyed and the information relating to the adult is preserved.

(e) The deletion of a computer entry constitutes destruction of the information contained in the entry.

(f) A law enforcement agency may maintain information relating to a child after the 90th day after the date the child successfully completes a first offender program under Section 52.031 only to determine the child's eligibility to participate in a first offender program.

SECTION 17. Section 58.002, Family Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) This section does not prohibit a law enforcement officer from photographing or fingerprinting a child who is not in custody if the child's parent or guardian voluntarily consents in writing to the photographing or fingerprinting of the child.

(d) This section does not apply to fingerprints that are required or authorized to be submitted or obtained for an application for a driver's license or personal identification card.

SECTION 18. Section 58.003, Family Code, is amended by adding Subsection (m) to read as follows:

(m) A record created or maintained under Article 6252-13c.1, Revised Statutes, may not be sealed under this section if the person who is the subject of the record has a continuing obligation to register under that article.

SECTION 19. Section 58.007(a), Family Code, is amended to read as follows:

(a) This section applies only to the inspection and maintenance of a physical record or file concerning a child and does not affect the collection, dissemination, or maintenance of information as provided by Subchapter B. This section does not apply to a record or file relating to a child that is required or authorized to be maintained under the laws regulating the operation of motor vehicles in this state or to a record or file relating to a child that is maintained by a municipal or justice court.

SECTION 20. Section 58.007, Family Code, is amended by amending Subsection (c) and adding Subsection (g) to read as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child may not be disclosed to the public and shall be:

(1) ~~[be]~~ kept separate from adult files and records; and

(2) ~~[be]~~ maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

(g) For the purpose of offering a record as evidence in the punishment phase of a criminal proceeding, a prosecuting attorney may obtain the record of a defendant's adjudication that is admissible under Section 3(a), Article 37.07, Code of Criminal Procedure, by submitting a request for the record to the juvenile court that made the adjudication. If a court receives a request from a prosecuting attorney under this subsection, the court shall, if the court possesses the requested record of adjudication, certify and provide the prosecuting attorney with a copy of the record.

SECTION 21. Section 58.104(f), Family Code, is amended to read as follows:

(f) Records maintained by the department in the depository are subject to being sealed under Section 58.003. The department shall send to the appropriate juvenile court its certification of records that the department determines, according to the department's records, are eligible for sealing under Section 58.003(a).

SECTION 22. Section 59.003, Family Code, is amended to read as follows:

Sec. 59.003. SANCTION LEVEL ASSIGNMENT GUIDELINES. (a) Subject to Subsection (e), after a child's first commission of delinquent conduct or conduct indicating a need for supervision, the probation department or prosecuting attorney may, or the juvenile court may, in a disposition hearing under Section 54.04 or a modification hearing under Section 54.05, assign a child one of the following sanction levels according to the child's conduct:

(1) for conduct indicating a need for supervision, other than a Class A or B misdemeanor, the sanction level is one;

(2) for a Class A or B misdemeanor, other than a misdemeanor involving the use or possession of a firearm, or for delinquent conduct under Section 51.03(a)(2) or (3), the sanction level is two;

(3) for a misdemeanor involving the use or possession of a firearm or for a state jail felony or a felony of the third degree, the sanction level is three;

(4) for a felony of the second degree, the sanction level is four;

(5) for a felony of the first degree, other than a felony involving the use of a deadly weapon or causing serious bodily injury, the sanction level is five;

(6) for a felony of the first degree involving the use of a deadly weapon or causing serious bodily injury, ~~[or] for an aggravated controlled substance felony, or for a capital felony,~~ the sanction level is six ~~[or, if the petition has been approved by a grand jury under Section 53.045, seven];~~ or

(7) for a ~~[capital]~~ felony of the first degree involving the use of a deadly weapon or causing serious bodily injury, for an aggravated controlled substance felony, or for a capital felony, if the petition has been approved by a grand jury under Section 53.045, or if a petition to transfer the child to criminal court has been filed under Section 54.02, the sanction level is seven.

(b) ~~Subject to Subsection (e), if the child subsequently is found to have engaged in delinquent conduct in an adjudication hearing under Section 54.03 or a hearing to modify a disposition under Section 54.05 on two separate occasions and each involves a violation of a penal law of a classification that is less than the classification of the child's previous conduct, the juvenile court may assign the child a sanction level that is one level higher than the previously assigned sanction level, unless the child's previously assigned sanction level is six. [For a child's refusal to comply with the restrictions and standards of behavior established by the parent or guardian and the court, a parent or guardian may notify the court of the child's refusal to comply, and the court may place the child at the next level of sanction. Notification of the court by the parent or guardian of the child's refusal satisfies the requirement of the parent to make a reasonable good faith effort to prevent the child from engaging in delinquent conduct or engaging in conduct indicating a need for supervision.]~~

(c) Subject to Subsection (e), if the child's subsequent commission of delinquent conduct or conduct indicating a need for supervision involves a violation of a penal law of a classification that is the same as or greater than the classification of the child's previous conduct, the juvenile court may assign the child a sanction level that is one level higher than the previously assigned sanction level, unless;

(1) the child's previously assigned sanction level is five and the child has not been adjudicated for delinquent conduct;

(2) the child's previously assigned sanction level is six, unless the subsequent violation is of a provision listed under Section 53.045(a) and the petition has been approved by a grand jury under Section 53.045; or

(3) the child's previously assigned sanction level is seven.

(d) Subject to Subsection (e), if the child's previously assigned sanction level is four or five and the child's subsequent commission of delinquent conduct is of the grade of felony, the juvenile court may assign the child a sanction level that is one level higher than the previously assigned sanction level.

(e) A juvenile court or probation department that deviates from the guidelines under this section shall state in writing its reasons for the deviation and submit the statement to the juvenile board regardless of whether a progressive sanctions program has been adopted by the juvenile board. Nothing in this chapter prohibits the imposition of appropriate sanctions that are different from those provided at any sanction level.

(f) The probation department may, in accordance with Section 54.05, request the extension of [extend] a period of probation specified under sanction levels one through five if the circumstances of the child warrant the extension ~~[and the probation department notifies the juvenile court in writing of the extension and the period of and reason for the extension. The court may on notice to the probation department deny the extension].~~

(g) Before the court assigns the child a sanction level that involves the revocation of the child's probation and the commitment of the child to the Texas Youth Commission, the court shall hold a hearing to modify the disposition as required by Section 54.05.

SECTION 23. Section 59.004(a), Family Code, is amended to read as follows:

(a) For a child at sanction level one, the juvenile court or probation department may:

(1) require counseling for the child regarding the child's conduct;

(2) inform the child of the progressive sanctions that may be imposed on the child if the child continues to engage in delinquent conduct or conduct indicating a need for supervision;

(3) inform the child's parents or guardians of the parents' or guardians' responsibility to impose reasonable restrictions on the child to prevent the conduct from recurring;

(4) provide information or other assistance to the child or the child's parents or guardians in securing needed social services;

(5) require the child or the child's parents or guardians to participate in a program for services under Section 264.302, if a program under Section 264.302 is available to the child or the child's parents or guardians;

(6) refer the child to a community-based citizen intervention program approved by the juvenile court; and

(7) release the child to the child's parents or guardians.

SECTION 24. Section 59.005(a), Family Code, is amended to read as follows:

(a) For a child at sanction level two, the juvenile court, the prosecuting attorney, or the probation department may, as provided by Section 53.03:

(1) place the child on deferred prosecution or court-ordered [~~or informal~~] probation for not less than three months or more than six months;

(2) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of harm caused and according to the child's ability;

(3) require the child's parents or guardians to identify restrictions the parents or guardians will impose on the child's activities and requirements the parents or guardians will set for the child's behavior;

(4) provide the information required under Sections 59.004(a)(2) and (4);

(5) require the child or the child's parents or guardians to participate in a program for services under Section 264.302, if a program under Section 264.302 is available to the child or the child's parents or guardians;

(6) refer the child to a community-based citizen intervention program approved by the juvenile court; and

(7) if appropriate, impose additional conditions of probation.

SECTION 25. Section 59.006(a), Family Code, is amended to read as follows:

(a) For a child at sanction level three, the juvenile court may:

(1) place the child on probation for not less than six months or more than 12 months;

(2) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of harm caused and according to the child's ability;

(3) impose specific restrictions on the child's activities and requirements for the child's behavior as conditions of probation;

(4) require a probation officer to closely monitor the child's activities and behavior;

(5) require the child or the child's parents or guardians to participate in programs or services designated by the court or probation officer; and

(6) if appropriate, impose additional conditions of probation.

SECTION 26. Section 59.007(a), Family Code, is amended to read as follows:

(a) For a child at sanction level four, the juvenile court may:

(1) require the child to participate as a condition of probation for not less than three months or more than 12 months in a highly intensive and regimented program that emphasizes discipline, physical fitness, social responsibility, and productive work;

(2) after release from the program described by Subdivision (1), continue the child on probation supervision for not less than six months or more than 12 months;

(3) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of harm caused and according to the child's ability;

(4) impose highly structured restrictions on the child's activities and requirements for behavior of the child as conditions of probation;

(5) require a probation officer to closely monitor the child;

(6) require the child or the child's parents or guardians to participate in programs or services designed to address their particular needs and circumstances; and

(7) if appropriate, impose additional sanctions.

SECTION 27. Section 59.008(a), Family Code, is amended to read as follows:

(a) For a child at sanction level five, the juvenile court may:

(1) ~~as a condition of probation, place [require] the child [to participate as a condition of probation]~~ for not less than six months or more than 12 ~~[nine]~~ months in a post-adjudication secure correctional facility ~~[highly structured residential program that emphasizes discipline, accountability, physical fitness, and productive work];~~

(2) after release from the program described by Subdivision (1), continue the child on probation supervision for not less than six months or more than 12 months;

(3) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of harm caused and according to the child's ability;

(4) impose highly structured restrictions on the child's activities and requirements for behavior of the child as conditions of probation;

(5) require a probation officer to closely monitor the child;

(6) require the child or the child's parents or guardians to participate in programs or services designed to address their particular needs and circumstances; and

(7) if appropriate, impose additional sanctions.

SECTION 28. Section 59.009(a), Family Code, is amended to read as follows:

(a) For a child at sanction level six, the juvenile court may ~~[shall]~~ commit the child to the custody of the Texas Youth Commission. The commission may:

(1) require the child to participate in a highly structured residential program that emphasizes discipline, accountability, fitness, training, and productive work for not less than nine months or more than 24 months unless the commission extends the period and the reason for an extension is documented;

(2) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of the harm caused and according to the child's ability, if there is a victim of the child's conduct;

(3) require the child and the child's parents or guardians to participate in programs and services for their particular needs and circumstances; and

(4) if appropriate, impose additional sanctions.

SECTION 29. Section 59.010(a), Family Code, is amended to read as follows:

(a) For a child at sanction level seven, the juvenile court may certify and transfer the child under Section 54.02 or ~~[shall]~~ sentence the child to commitment to the Texas Youth Commission under Section 54.04(d)(3), 54.04(m), or 54.05(f). The commission may:

(1) require the child to participate in a highly structured residential program that emphasizes discipline, accountability, fitness, training, and productive work for not less than 12 months or more than 10 years unless the commission extends the period and the reason for the extension is documented;

(2) require the child to make restitution to the victim of the child's conduct or perform community service restitution appropriate to the nature and degree of harm caused and according to the child's ability, if there is a victim of the child's conduct;

(3) require the child and the child's parents or guardians to participate in programs and services for their particular needs and circumstances; and

(4) impose any other appropriate sanction.

SECTION 30. Section 264.302(e), Family Code, is amended to read as follows:

(e) The department shall provide services~~[- directly or by contract,]~~ for a child and the child's family if a contract to provide services under this section is available in the county and the child is referred to the department as an at-risk child by:

(1) a court under Section 264.304;

(2) a juvenile court or probation department as part of a progressive sanctions program under Chapter 59;

(3) a law enforcement officer or agency under Section 52.03; or

(4) a justice or municipal court under Section 54.022.

SECTION 31. Section 3, Article 37.07, Code of Criminal Procedure, is amended by amending Subsection (a) and adding Subsection (h) to read as follows:

(a) Regardless of the plea and whether the punishment be assessed by the judge or the jury, evidence may be offered by the state and the defendant as to any matter the court deems relevant to sentencing, including but not limited to the prior criminal record of the defendant, his general reputation, his character, an opinion regarding his character, the circumstances of the offense for which he is being tried, and, notwithstanding Rules 404 and 405, Texas Rules of Criminal Evidence, any other evidence of an extraneous crime or bad act that is shown beyond a reasonable doubt by evidence to have been committed by the defendant or for which he could be held criminally responsible, regardless of whether he has previously been charged with or finally convicted of the crime or act. A court may consider as a factor in mitigating punishment the conduct of a defendant while participating in a program under Chapter 17 ~~[of this code]~~ as a condition of release on bail. Additionally, notwithstanding Rule 609(d), Texas Rules of Criminal Evidence, and subject to Subsection (h), evidence may be offered by the state and the defendant of an adjudication of delinquency based on a violation by the defendant of a penal law of the grade of:

(1) a felony; or

(2) a misdemeanor punishable by confinement in jail.

(h) Evidence of an adjudication for conduct that is a violation of a penal law of the grade of misdemeanor punishable by confinement in jail is admissible only if the conduct upon which the adjudication is based occurred on or after January 1, 1996.

SECTION 32. Section 61.073, Human Resources Code, is amended to read as follows:

Sec. 61.073. RECORDS OF EXAMINATIONS AND TREATMENT. The commission shall keep written records of all examinations and conclusions based on them and of all orders concerning the disposition or treatment of each child subject to its control. Except as provided by Section 61.093(c), these [These] records are not public and are available only according to the provisions of Section 58.005, Family Code, and Chapter 61, Code of Criminal Procedure.

SECTION 33. Section 61.077, Human Resources Code, is amended to read as follows:

Sec. 61.077. CHILDREN WITH MENTAL ILLNESS OR MENTAL RETARDATION [MENTALLY ILL OR RETARDED CHILD]. (a) ~~[If the commission determines that a child committed to it is mentally ill, the commission, without delay, shall return the child to the court of original jurisdiction for appropriate disposition or shall request that the court in the county where the child is located take any action required by the condition of the child.~~

~~[(b)]~~ The commission shall accept a child committed to the commission who is mentally ill or mentally retarded.

(b) Unless a child is committed to the commission under a determinate sentence under Section 54.04(d)(3), 54.04(m), or 54.05(f), Family Code, the commission shall discharge a child who is mentally ill or mentally retarded from its custody if:

(1) the child has completed the minimum length of stay for the child's committing offense; and

(2) the commission determines that the child is unable to progress in the commission's rehabilitation programs because of the child's mental illness or mental retardation.

SECTION 34. Subchapter E, Chapter 61, Human Resources Code, is amended by adding Section 61.0772 to read as follows:

Sec. 61.0772. EXAMINATION BEFORE DISCHARGE. (a) The commission shall establish a system that identifies children in the commission's custody who are mentally ill or mentally retarded.

(b) Not later than the 30th day before the date a child who is identified as mentally ill is discharged from the commission's custody under Section 61.077(b), a commission psychiatrist shall examine the child. The psychiatrist shall file a sworn application for court-ordered mental health services, as provided in Subchapter C, Chapter 574, Health and Safety Code, if the psychiatrist determines that the child is mentally ill and the child meets at least one of the criteria listed in Section 574.034, Health and Safety Code.

(c) Not later than the 30th day before the date a child who is identified as mentally retarded is discharged from the commission's custody under Section 61.077(b), the commission shall refer the child for a determination of mental retardation and an interdisciplinary team recommendation of the child, as provided by Chapter 593, Health and Safety Code, to be performed at a facility approved or operated by the Texas Department of Mental Health and Mental Retardation or at a community center established in accordance with Chapter 534, Health and Safety Code.

SECTION 35. Section 61.093, Human Resources Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding Section 58.005, Family Code, the commission may disseminate to the public the following information relating to a child who has escaped from custody:

(1) the child's name, including other names by which the child is known;

(2) the child's physical description, including sex, weight, height, race, ethnicity, eye color, hair color, scars, marks, and tattoos;

(3) a photograph of the child; and

(4) if necessary to protect the welfare of the community, any other information that reveals dangerous propensities of the child or expedites the apprehension of the child.

SECTION 36. Section 61.101, Human Resources Code, is amended to read as follows:

Sec. 61.101. YOUTH BOOT CAMP PROGRAMS. (a) The commission may establish a youth boot camp program and may employ necessary personnel to operate the youth boot camps.

~~(b) [The commission, in consultation with the Texas Juvenile Probation Commission, may develop a program of moral, academic, vocational, physical, and correctional training and activities in which a child placed in a youth boot camp as an intermediate sanction under Section 54.04(d)(1)(C), Family Code, is required to participate, including programs to educate the child as to the conditions under which children committed to the Texas Youth Commission and the institutional division of the Texas Department of Criminal Justice live and follow-up programs to aid successful community reintegration.~~

~~[(c) The commission may refuse to accept a child in a youth boot camp as an intermediate sanction under Section 54.04(d)(1)(C), Family Code, and may return the child to the juvenile court in the same manner and under the same conditions provided under Section 61.0386.~~

~~[(d) The placement of a child in a youth boot camp as an intermediate sanction under Section 54.04(d)(1)(C), Family Code, is not a commitment to the commission, and the child may not be transferred by the commission, or be a resident of, any other type of commission facility other than a medical facility.~~

~~[(e) The commission, in consultation with the Texas Juvenile Probation Commission, shall develop guidelines for a program of physical and correctional training and military-style discipline for children placed in youth boot camps operated by local probation departments for violating the conditions of release under supervision or parole under Section 61.081.~~

~~[(f) The commission shall develop a program of physical and correctional training and military-style discipline for children committed to the commission who are placed in youth boot camps or other commission facilities.~~

~~[(g) The commission shall adopt rules of conduct for children participating in the program under this section.~~

SECTION 37. Section 141.042(a), Human Resources Code, is amended to read as follows:

(a) The commission shall adopt reasonable rules that provide:

(1) minimum standards for personnel, staffing, case loads, programs, facilities, record keeping, equipment, and other aspects of the operation of a juvenile board that are necessary to provide adequate and effective probation services;

(2) a code of ethics for probation officers and for the enforcement of that code;

(3) appropriate educational, preservice and in-service training, and certification standards for probation officers or court-supervised community-based program personnel; ~~and~~

(4) minimum standards for juvenile detention facilities, public post-adjudication juvenile secure correctional facilities that are operated under the authority of a juvenile board, and private post-adjudication juvenile secure correctional facilities, except those facilities exempt from certification by Section 42.052(e); and

(5) procedures for the implementation of a progressive sanctions program under Chapter 59, Family Code.

SECTION 38. Section 574.001, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (f) to read as follows:

(b) Except as provided by Subsection (f), the [The] application must be filed with the county clerk in the county in which the proposed patient:

(1) resides;

(2) is found; or

(3) is receiving mental health services by court order or under Subchapter A, Chapter 573.

(f) An application in which the proposed patient is a child in the custody of the Texas Youth Commission may be filed in the county in which the child's commitment to the commission was ordered.

SECTION 39. Section 593.041, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (e) to read as follows:

(b) Except as provided by Subsection (e), the [The] application must be filed with the county clerk in the county in which the proposed resident resides. If the superintendent of a residential care facility files an application for judicial commitment of a voluntary resident, the county in which the facility is located is considered the resident's county of residence.

(e) An application in which the proposed patient is a child in the custody of the Texas Youth Commission may be filed in the county in which the child's commitment to the commission was ordered.

SECTION 40. Sections 729.001(a) and (c), Transportation Code, are amended to read as follows:

(a) A person who is ~~[at least 14 years of age but]~~ younger than 17 years of age commits an offense if the person operates a motor vehicle on a public road or highway, a street or alley in a municipality, or a public beach in violation of any traffic law of this state, including:

(1) Chapter 502, other than Section 502.282[~~;~~ 502.408(b), 502.409(c);] or 502.412;

(2) Chapter 521;

(3) Subtitle C, other than an offense under Section 550.021, 550.022, or 550.024;

- (4) Chapter 601;
- (5) Chapter 621;
- (6) Chapter 661; and
- (7) Chapter 681.

(c) An offense under this section is a Class C misdemeanor [~~punishable by a fine not to exceed \$100~~].

SECTION 41. Section 51.02(16), Family Code, is amended to read as follows:

(16) "Traffic offense" means:

(A) a violation of a penal statute cognizable under Chapter 729, Transportation Code, except for:

(i) conduct constituting an offense under Section 550.021, Transportation Code;

(ii) conduct constituting an offense punishable as a Class B misdemeanor under Section 550.022, Transportation Code; or

(iii) conduct constituting an offense punishable as a Class B misdemeanor under Section 550.024, Transportation Code [302, Acts of the 55th Legislature, Regular Session, 1957, as amended (Article 6701H-4, Vernon's Texas Civil Statutes)]; or

(B) a violation of a motor vehicle traffic ordinance of an incorporated city or town in this state.

SECTION 42. Section 8.07(a), Penal Code, is amended to read as follows:

(a) A person may not be prosecuted for or convicted of any offense that he committed when younger than 15 years of age except:

(1) perjury and aggravated perjury when it appears by proof that he had sufficient discretion to understand the nature and obligation of an oath;

(2) a violation of a penal statute cognizable under Chapter 729, Transportation Code, except for:

(A) an offense under Section 550.021, Transportation Code;

(B) an offense punishable as a Class B misdemeanor under Section 550.022, Transportation Code; or

(C) an offense punishable as a Class B misdemeanor under Section 550.024, Transportation Code [302, Acts of the 55th Legislature, Regular Session, 1957 (Article 6701H-4, Vernon's Texas Civil Statutes)];

(3) a violation of a motor vehicle traffic ordinance of an incorporated city or town in this state;

(4) a misdemeanor punishable by fine only other than public intoxication;

(5) a violation of a penal ordinance of a political subdivision; or

(6) a violation of a penal statute that is, or is a lesser included offense of, a capital felony, an aggravated controlled substance felony, or a felony of the first degree for which the person is transferred to the court under Section 54.02, Family Code, for prosecution if the person committed the offense when 14 years of age or older.

SECTION 43. Section 729.002, Transportation Code, is amended to read as follows:

Sec. 729.002. OPERATION OF MOTOR VEHICLE BY MINOR WITHOUT LICENSE. (a) A person who is [~~at least 14 years of age but~~]

younger than 17 years of age commits an offense if the person operates a motor vehicle without a driver's license authorizing the operation of a motor vehicle on a:

- (1) public road or highway;
- (2) street or alley in a municipality; or
- (3) public beach as defined by Section 729.001.

(b) An offense under this section is a Class C misdemeanor [~~punishable by a fine not to exceed \$100~~].

SECTION 44. Section 729.003(a), Transportation Code, is amended to read as follows:

(a) A person may not plead guilty to an offense under Section 729.001 or 729.002 or to a violation of a motor vehicle traffic ordinance of an incorporated city or town except in open court before a judge. A person may not be convicted of an offense or fined as provided by this chapter or under a municipal traffic ordinance except in the presence of one or both parents or guardians having legal custody of the person. The court shall summon one or both parents or guardians to appear in court and shall require one or both of them to be present during all proceedings in the case. The court may waive the requirement of the presence of parents or guardians if, after diligent effort, the court cannot locate them or compel their presence.

SECTION 45. Subchapter B, Chapter 87, Education Code, is amended by adding Section 87.105 to read as follows:

Sec. 87.105. CENTER FOR THE STUDY AND PREVENTION OF JUVENILE CRIME AND DELINQUENCY. (a) The Center for the Study and Prevention of Juvenile Crime and Delinquency is established at Prairie View A&M University.

(b) The organization, control, and management of the center is vested in the board of regents of The Texas A&M University System.

(c) The board of regents shall approve the employment of personnel by and the operating budget of the center. An employee of the center is an employee of Prairie View A&M University.

(d) The center may:

(1) conduct, coordinate, collect, and evaluate research in all areas relating to juvenile crime and delinquency;

(2) provide a setting for educational programs relating to juvenile crime and delinquency, including degree programs at Prairie View A&M University and other educational programs such as continuing education and in-service training for criminal justice and social service professionals;

(3) serve as a state and national resource for information on juvenile crime and delinquency; and

(4) in connection with its research and educational programs:

(A) develop programs, policies, and strategies to address juvenile crime and delinquency and related social problems; and

(B) create partnerships, collaborative efforts, or outreach, public service, or technical assistance programs to assist communities, governmental agencies, or private entities to implement programs, policies, and strategies that address juvenile crime and delinquency and related social problems.

(e) The center may enter into a cooperative agreement or contract with a public or private entity to perform the duties of the center.

(f) The board of regents may accept gifts and grants from a public or private source for the benefit of the center.

(g) Establishment of the center is subject to the availability of funds for that purpose.

SECTION 46. Subtitle C, Title 7, Local Government Code, is amended by adding Chapter 244 to read as follows:

CHAPTER 244. CORRECTIONAL OR REHABILITATION
FACILITY LOCATION

Sec. 244.001. DEFINITIONS. In this chapter:

(1) "Correctional or rehabilitation facility" means a probation or parole office or a residential facility that:

(A) is operated by an agency of the state, a political subdivision of the state, or a private vendor operating under a contract with an agency of the state or a political subdivision of the state; and

(B) houses persons convicted of misdemeanors or felonies or children found to have engaged in delinquent conduct, regardless of whether the persons are housed in the residential facility:

(i) while serving a sentence of confinement following conviction of an offense;

(ii) as a condition of probation, parole, or mandatory supervision; or

(iii) under a court order for out-of-home placement under Title 3, Family Code, other than in a foster home operated under a contract with the juvenile board of the county in which the foster home is located or under a contract with the Texas Youth Commission.

(2) "Residential area" means:

(A) an area designated as a residential zoning district by a governing ordinance or code or an area in which the principal permitted land use is for private residences;

(B) a subdivision for which a plat is recorded in the real property records of the county and that contains or is bounded by public streets or parts of public streets that are abutted by residential property occupying at least 75 percent of the front footage along the block face; or

(C) a subdivision for which a plat is recorded in the real property records of the county and a majority of the lots of which are subject to deed restrictions limiting the lots to residential use.

Sec. 244.002. NOTICE OF PROPOSED LOCATION. (a) An agency of the state, a political subdivision of the state, or a private vendor operating under a contract with an agency or political subdivision of the state that proposes to construct or operate a correctional or rehabilitation facility within 1,000 feet of a residential area, a primary or secondary school, property designated as a public park or public recreation area by the state or a political subdivision of the state, or a church, synagogue, or other place of worship shall, if a request is made under Section 244.005, notify:

(1) the commissioners court of any county with an unincorporated area that includes all or part of the land within 1,000 feet of the proposed correctional or rehabilitation facility; and

(2) the governing body of any municipality that includes within its boundaries all or part of the land within 1,000 feet of the proposed correctional or rehabilitation facility.

(b) An entity required to give notice under Subsection (a) shall give notice not later than the 60th day before the date the entity begins construction or operation of the correctional or rehabilitation facility, whichever date is earlier.

(c) For purposes of this chapter, distance is measured along the shortest straight line between the nearest property line of the correctional or rehabilitation facility and the nearest property line of the residential area, school, park, recreation area, or place of worship, as appropriate.

Sec. 244.003. PROXIMITY OF CORRECTIONAL OR REHABILITATION FACILITY. (a) Unless local consent is denied under Section 244.004, an agency of the state, a political subdivision of the state, or a private vendor operating under a contract with an agency or political subdivision of the state may operate a correctional or rehabilitation facility within 1,000 feet of a residential area, a primary or secondary school, property designated as a public park or public recreation area by the state or a political subdivision of the state, or a church, synagogue, or other place of worship.

(b) The governing body of a church, synagogue, or other place of worship may waive the distance requirements of Section 244.002 between a correctional or rehabilitation facility and the place of worship by filing an acknowledged written statement of the waiver in the deed records of the county in which the facility is located.

Sec. 244.004. LOCAL CONSENT. (a) Local consent to the operation of a correctional or rehabilitation facility at a location within 1,000 feet of a residential area, a primary or secondary school, property designated as a park or public recreation area by the state or a political subdivision of the state, or a church, synagogue, or other place of worship is granted unless, not later than the 60th day after the date on which notice is received by a commissioners court or governing body of a municipality under Section 244.002(a), the commissioners court or governing body, as appropriate, determines by resolution after a public hearing that the operation of a correctional or rehabilitation facility at the proposed location is not in the best interest of the county or municipality, as appropriate.

(b) A commissioners court or governing body of a municipality may rescind a resolution adopted under Subsection (a).

Sec. 244.005. WRITTEN REQUEST TO RECEIVE NOTICE. (a) The commissioners court of a county described under Section 244.002(a)(1) and the governing body of a municipality described under Section 244.002(a)(2) are entitled to notice under Section 244.002(a) only if the commissioners court or the governing body, as appropriate, submits by resolution to the agency or political subdivision of the state that proposes to construct or operate a correctional or rehabilitation facility, or that contracts for the construction or operation of a correctional or rehabilitation facility, a written request to receive notice.

(b) The commissioners court of a county described under Section 244.002(a)(1) and the governing body of a municipality described under Section 244.002(a)(2) are entitled to receive notice under Section 244.002(a) from a

private vendor that contracts with an agency or political subdivision of the state only if the commissioners court or governing body, as appropriate, submits by resolution to the contracting agency or political subdivision of the state a written request to receive notice.

Sec. 244.006. EXEMPTIONS. This chapter does not apply to the operation of a correctional or rehabilitation facility at a location subject to this chapter if:

(1) on September 1, 1997, the correctional or rehabilitation facility was in operation, under construction, under contract for operation or construction, or planned for construction at the location on land owned or leased by an agency or political subdivision of the state and designated for use as a correctional or rehabilitation facility;

(2) the correctional or rehabilitation facility was in operation or under construction before the establishment of a residential area the location of which makes the facility subject to this chapter;

(3) the correctional or rehabilitation facility is a temporary correctional or rehabilitation facility that will be operated at the location for less than one year;

(4) the correctional or rehabilitation facility is required to obtain a special use permit or a conditional use permit from the municipality in which the facility is located before beginning operation;

(5) the correctional or rehabilitation facility is an expansion of a facility operated by the institutional division of the Texas Department of Criminal Justice or by the Texas Youth Commission;

(6) the correctional or rehabilitation facility is a county jail or a pre-adjudication or post-adjudication juvenile detention facility operated by a county or county juvenile board;

(7) the facility is:

(A) a juvenile probation office located at, and operated in conjunction with, a juvenile justice alternative education center; and

(B) used exclusively by students attending the juvenile justice alternative education center;

(8) the facility is a public or private institution of higher education or vocational training to which admission is open to the general public;

(9) the facility is operated primarily as a treatment facility for juveniles under contract with the Texas Department of Mental Health and Mental Retardation or a local mental health or mental retardation authority;

(10) the facility is operated as a juvenile justice alternative education program;

(11) the facility:

(A) is not operated primarily as a correctional or rehabilitation facility; and

(B) only houses persons or children described by Section 244.001(1)(B) for a purpose related to treatment or education;

(12) the facility is a probation or parole office located in a commercial use area.

Sec. 244.007. CONFLICT WITH OTHER LAW. To the extent of any conflict between this chapter and Section 509.010, Government Code, this chapter prevails.

Sec. 244.008. SUNSET REVIEW. (a) The Sunset Advisory Commission shall review this chapter, evaluate the operation and effectiveness of this chapter, and, not later than January 1, 2003, make recommendations to the legislature and the governor regarding:

(1) the public necessity for this chapter;

(2) changes that would improve the notice and local consent requirements of this chapter; and

(3) whether this chapter should be continued, modified, or repealed.

(b) This chapter expires September 1, 2003.

SECTION 47. Section 51.02(15), Family Code, is amended to read as follows:

(15) "Status offender" means a child who is accused, adjudicated, or convicted for conduct that would not, under state law, be a crime if committed by an adult, including:

(A) truancy under Section 51.03(b)(2);

(B) running away from home under Section 51.03(b)(3);

(C) a fineable only offense under Section 51.03(b)(1) transferred to the juvenile court under Section 51.08(b), but only if the conduct constituting the offense would not have been criminal if engaged in by an adult;

(D) failure to attend school under Section 4.251, Education Code;

(E) a violation of standards of student conduct as described by Section 51.03(b)(5) [~~51.03(b)(6)~~];

(F) a violation of a juvenile curfew ordinance or order;

(G) a violation of a provision of the Alcoholic Beverage Code applicable to minors only; or

(H) a violation of any other fineable only offense under Section 8.07(a)(4) or (5), Penal Code, but only if the conduct constituting the offense would not have been criminal if engaged in by an adult.

SECTION 48. Section 52.025(b), Family Code, is amended to read as follows:

(b) A child may be detained in a juvenile processing office only for:

(1) the return of the child to the custody of a person under Section 52.02(a)(1) [~~of this code~~];

(2) the completion of essential forms and records required by the juvenile court or this title;

(3) the photographing and fingerprinting of the child if otherwise authorized at the time of temporary detention by this title;

(4) the issuance of warnings to the child as required or permitted by this title; or

(5) the receipt of a statement by the child under Section 51.095(a)(1), (2), (3), or (5) [~~Section 51.09(b) of this code~~].

SECTION 49. (a) Section 58.004, Family Code, is repealed.

(b) Sections 61.0386, 61.0771, 61.102, and 61.103, Human Resources Code, are repealed.

(c) Section 105(e), Chapter 262, Acts of the 74th Legislature, Regular Session, 1995, is repealed.

SECTION 50. The Texas Juvenile Probation Commission shall adopt rules

relating to the implementation of a progressive sanctions program as required by this Act not later than January 1, 1998.

SECTION 51. The change in law made by this Act to Section 54.08, Family Code, applies only to a hearing under Title 3, Family Code, commenced on or after the effective date of this Act. A hearing commenced before the effective date of this Act is governed by the law in effect on the date the hearing was commenced, and the former law is continued in effect for that purpose.

SECTION 52. The change in law made by this Act to Section 58.007(a), Family Code, applies to law enforcement files and records maintained by a municipal or justice court before, on, or after September 1, 1997.

SECTION 53. (a) The change in law made by this Act applies only to conduct that occurs on or after the effective date of this Act. Conduct violating a penal law of the state occurs on or after the effective date of this Act if every element of the violation occurs on or after that date.

(b) Conduct that occurs before the effective date of this Act is covered by the law in effect at the time the conduct occurred, and the former law is continued in effect for that purpose.

SECTION 54. (a) In addition to the substantive changes in law made by this Act, this Act conforms the Transportation Code to the changes in law made by Section 9(6), Chapter 34, Acts of the 74th Legislature, Regular Session, 1995.

(b) To the extent of any conflict, this Act prevails over another Act of the 75th Legislature, Regular Session, 1997, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 55. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1997.

(b) The following sections of this Act take effect immediately and apply to a person in the custody of the Texas Youth Commission or committed to the custody of the Texas Youth Commission on or after the effective date of the section:

- (1) Section 51.0411, Family Code, as added by this Act;
- (2) Sections 574.001 and 593.041, Health and Safety Code, as amended by this Act;
- (3) Sections 61.077 and 61.093, Human Resources Code, as amended by this Act; and
- (4) Section 61.0772, Human Resources Code, as added by this Act.

SECTION 56. 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 Goodman moved to adopt the conference committee report on **HB 1550**.

The motion prevailed. (The vote was reconsidered later today, and the conference committee report was adopted by Record 641.)

HB 2384 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Delisi submitted the following conference committee report on **HB 2384**:

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 2384** 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	Delisi
Carona	Berlanga
Lindsay	Coleman
Patterson	Glaze
	Janek

On the part of the Senate On the part of the House

HB 2384, A bill to be entitled An Act relating to the provision of charity care, indigent health care, and other community benefits by certain nonprofit hospitals.

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

SECTION 1. Section 311.044, Health and Safety Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) In determining the community-wide needs assessment required by Subsection (b), a nonprofit hospital shall consider consulting with and seeking input from representatives of the following entities or organizations located in the community as defined by Subsection (b):

- (1) the local health department;
- (2) the public health region under Chapter 121;
- (3) the public health district;
- (4) health-related organizations, including a health professional association or hospital association;
- (5) health science centers;
- (6) private business;
- (7) consumers;
- (8) local governments; and
- (9) insurance companies and managed care organizations with an active market presence in the community.

(e) Representatives of a nonprofit hospital shall consider meeting with representatives of the entities and organizations listed in Subsection (d) to assess the health care needs of the community and population served by the nonprofit hospital.

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 Delisi moved to adopt the conference committee report on **HB 2384**.

The motion prevailed.

HB 2481 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Swinford submitted the following conference committee report on **HB 2481**:

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 2481** 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.

Sibley	Swinford
Ogden	Glaze
Nelson	West
Zaffirini	Hawley
	B. Turner

On the part of the Senate On the part of the House

HB 2481, A bill to be entitled An Act relating to faith-based chemical dependency treatment programs and counselors.

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

SECTION 1. Chapter 464, Health and Safety Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. FAITH-BASED CHEMICAL
DEPENDENCY TREATMENT PROGRAMS

Sec. 464.051. DEFINITIONS. In this subchapter:

(1) "Chemical dependency" has the meaning assigned by Section 464.001.

(2) "Commission" has the meaning assigned by Section 464.001.

(3) "Religious organization" means a church, synagogue, mosque, or other religious institution:

(A) the purpose of which is the propagation of religious beliefs; and

(B) that is exempt from federal income tax under Section 501(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 501(a)) by being listed as an exempt organization under Section 501(c) of that code (26 U.S.C. Section 501(c)).

(4) "Treatment" has the meaning assigned by Section 464.001.

(5) "Treatment facility" has the meaning assigned by Section 464.001.

Sec. 464.052. EXEMPTION FOR FAITH-BASED CHEMICAL DEPENDENCY TREATMENT PROGRAM. (a) Subchapter A does not apply to a chemical dependency treatment program that:

(1) is conducted by a religious organization;

(2) is exclusively religious, spiritual, or ecclesiastical in nature;

(3) does not treat minors; and

(4) is registered under Section 464.053.

(b) The commission may not prohibit the use, by a program exempted under this subchapter, of the term "counseling," "treatment," or "rehabilitation."

Sec. 464.053. EXEMPT PROGRAM REGISTRATION. The commission by rule shall establish a simple procedure for a faith-based chemical dependency treatment program to register the program's exemption under Section 464.052.

Sec. 464.054. MEDICAL SERVICES PROHIBITED. A program exempted under this subchapter may not provide medical care, medical detoxification, or medical withdrawal services.

Sec. 464.055. REPRESENTATIONS IN PROGRAM ADVERTISING OR LITERATURE. A program exempted under this subchapter shall conspicuously include in any advertisement or literature that promotes or describes the program or the program's chemical dependency treatment services the following statement:

"The treatment and recovery services at (name of program) are exclusively religious in nature and are not subject to licensure or regulation by the Texas Commission on Alcohol and Drug Abuse. This program offers only nonmedical treatment and recovery methods such as prayer, moral guidance, spiritual counseling, and scriptural study."

Sec. 464.056. DECLARATION ON ADMISSION. (a) A program exempted under this subchapter may not admit a person unless the person signs the following statement on admission:

"DECLARATION:

"I understand that:

(1) the treatment and recovery services at (name of program) are exclusively religious in nature and are not subject to licensure or regulation by the Texas Commission on Alcohol and Drug Abuse; and

(2) (name of program) offers only nonmedical treatment and recovery methods, such as prayer, moral guidance, spiritual counseling, and scriptural study."

signed _____ date _____

(b) The program shall:

(1) keep the original signed statement on file; and

(2) provide a copy of the signed statement to the person admitted.

Sec. 464.057. REVOCATION OF EXEMPTION. The commission may revoke the exemption after notice and hearing if:

(1) the organization conducting the program fails to timely inform the commission of any material change in the program's registration information;

(2) any program advertisement or literature fails to include the statements required by Section 464.055; or

(3) the organization violates this subchapter or a commission rule adopted under this subchapter.

Sec. 464.058. GENERAL DIRECTIVE TO STATE AGENCIES. A state agency may not deny to an individual a state or federal social service benefit on the basis that the individual is participating in a faith-based residential chemical dependency treatment program.

Sec. 464.059. RELIGION NOT ENDORSED. This subchapter is not intended to aid religion. This subchapter is intended to aid chemically dependent persons by supporting programs that serve the valid public purpose of combating chemical dependency, regardless of whether the programs are religious, spiritual, or ecclesiastical in nature. The exemption of faith-based chemical dependency treatment programs from licensure and regulation is not an endorsement or sponsorship by the state of the religious character, expression, beliefs, doctrines, or practices of the treatment programs.

Sec. 464.060. DIRECT PUBLIC FUNDING PROHIBITED. A program exempted under this subchapter is not eligible to compete against a licensed program for direct federal or state treatment funding.

Sec. 464.061. EFFECT ON HEALTH AND SAFETY DUTIES OR POWERS. This subchapter does not affect the authority of a local, regional, or state health department official, the state fire marshal, or a local fire prevention official to inspect a facility used by a program exempted under this subchapter.

SECTION 2. Chapter 33, Human Resources Code, is amended by adding Section 33.012 to read as follows:

Sec. 33.012. CHEMICAL DEPENDENCY TREATMENT PROGRAM AS REPRESENTATIVE. The department shall provide an individual's food stamp allotment to the residential chemical dependency treatment program in which the person resides to the extent allowed under Section 8(f), Food Stamp Act of 1977 (7 U.S.C. Section 2017(e)), if the individual designates the program as the individual's authorized representative.

SECTION 3. Section 464.002, Health and Safety Code, is amended to read as follows:

Sec. 464.002. LICENSE REQUIRED. A person may not offer or purport to offer chemical dependency treatment without a license issued under this subchapter, unless the person is exempted under Subchapter C or is working for or providing counseling with a program exempted under Subchapter C.

SECTION 4. Section 3(b), Chapter 635, Acts of the 72nd Legislature, Regular Session, 1991 (Article 4512o, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) This Act does not apply to the activities and services of:

(1) a person employed as a counselor by a federal institution, if the person is performing chemical dependency counseling within the scope of the person's employment;

(2) a student, intern, or trainee pursuing a course of study in counseling at a regionally accredited institution of higher education or training institution, if those activities and services constitute a part of the supervised course of study and the person is designated as a "counselor intern";

(3) a person who is not a resident of this state if:

(A) performed for not more than 30 days during any year;
and

(B) the person is authorized to perform the activities and services under the laws of the state of the person's residence; [or]

(4) a licensed physician or psychologist, licensed professional counselor, or certified social worker;

(5) a[;] religious leader of a congregation providing pastoral chemical dependency counseling within the scope of his or her duties or a person who is working for or providing counseling with a program exempted under Subchapter C, Chapter 464, Health and Safety Code; or

(6) a school counselor certified by the State Board for Educator Certification [~~Central Education Agency~~].

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 Swinford moved to adopt the conference committee report on **HB 2481**.

The motion prevailed.

HB 2697 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Gallego submitted the following conference committee report on **HB 2697**:

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 2697** 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	Gallego
Madla	Puente
Cain	Roman
On the part of the Senate	On the part of the House

HB 2697, A bill to be entitled An Act relating to the salary from the state of a district judge who serves as a local administrative district judge.

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

SECTION 1. Section 659.012, Government Code, is amended to read as follows:

Sec. 659.012. JUDICIAL SALARIES. (a) A justice of a court of appeals other than the chief justice is entitled to an annual salary from the state that

is five percent less than the salary provided by the General Appropriations Act for a justice of the supreme court. The combined salary of a justice of the court of appeals other than the chief justice from all state and county sources may not exceed the amount that is \$1,000 less than the salary provided for a justice of the supreme court.

(b) The chief justice of a court of appeals is entitled to an annual salary from the state that is \$500 more than the salary provided for the other justices of the court of appeals. The combined salary of the chief justice of a court of appeals may not exceed the amount that is \$500 less than the salary provided for a justice of the supreme court.

(c) A judge of a district court is entitled to an annual salary from the state that is 10 percent less than the salary provided in the General Appropriations Act for a justice of the supreme court. Unless otherwise provided by law, the combined salary of a district judge from state and county sources may not exceed the amount that is \$2,000 less than the salary provided for a justice of the supreme court. To the extent of any conflict, the salary differential provided by this section for the combined salary of a district judge prevails over any differential set by Chapter 32.

(d) In a county with more than five district courts, a district judge who serves as a local administrative district judge under Section 74.091 is entitled to an annual salary from the state that is \$5,000 more than the salary from the state to which the judge is otherwise entitled under Subsection (c).

(e) For the purpose of salary payments by the state, the comptroller shall determine from sworn statements filed by the justices of the courts of appeals and district judges that the required salary differentials provided by this section are maintained. If a salary combined with a county supplement would be in excess of the differential provided by this section, the comptroller shall reduce the state salary by the amount of the excess.

SECTION 2. This Act takes effect September 1, 1997.

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 Gallego moved to adopt the conference committee report on **HB 2697**.

The motion prevailed.

HB 2850 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Williams submitted the following conference committee report on **HB 2850**:

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 2850** 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.

Galloway

Williams

Lindsay

Denny

Nixon

Christian

On the part of the Senate

On the part of the House

HB 2850, A bill to be entitled An Act relating to the exclusion from emergency service districts and rural fire prevention districts of certain territory subject to ad valorem assessments.

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

SECTION 1. Subchapter B, Chapter 775, Health and Safety Code, is amended by adding Section 775.025 to read as follows:

Sec. 775.025. EXCLUSION OF CERTAIN TERRITORY SUBJECT TO AD VALOREM ASSESSMENTS. (a) The board shall hold a hearing to consider the exclusion from the district of territory in a planned community if the board receives a petition requesting a hearing on the issue that is signed by at least five percent of the qualified voters residing in the territory proposed to be excluded from the district. A petition submitted under this subsection must describe the boundaries of the territory to be excluded from the district.

(b) The board shall give notice of a hearing under this section. The procedure under Section 775.015 for issuing notice of a hearing to create the district applies to the notice under this section. The notice must state:

(1) the boundaries of the territory proposed to be excluded;

(2) the time and place of the hearing; and

(3) that each person who has an interest in the exclusion or nonexclusion of the territory may attend the hearing and present the person's opinion for or against the exclusion of the territory.

(c) After the hearing, if the board finds that the entity responsible for administering and collecting the ad valorem based assessments in the territory to be excluded provides or contracts for the provision of substantially the same services as provided by the district, the board shall:

(1) order an election on the question of exclusion; or

(2) declare by resolution the territory excluded from the district.

(d) The board may not exclude territory by resolution if at least three percent of the qualified voters residing in the territory to be excluded from the district protest the exclusion in writing at the hearing.

(e) In a resolution excluding territory, the board shall describe the new boundaries of the district.

(f) The board shall order an election in the territory proposed to be excluded on the question of exclusion if:

(1) at least three percent of the qualified voters residing in the territory to be excluded protest the exclusion in writing at the hearing; or

(2) the board:

(A) despite the lack of a sufficient protest, refuses to exclude the territory; and

(B) not later than the 90th day after refusing to exclude the

territory, receives a petition requesting an election that is signed by at least 10 percent of the qualified voters residing in the territory proposed to be excluded.

(g) Except as otherwise provided by the Election Code, the provisions of this chapter relating to the election creating the district apply to the election notice, the manner and time of giving the notice, and the manner of holding the election under this section.

(h) For purposes of the election, the order calling the election shall divide the territory proposed to be excluded from the district into one or more precincts.

(i) If a majority of the votes in an election favor excluding the territory from the district, the board shall enter an order declaring the territory excluded from the district and describing the new boundaries of the district.

(j) The board shall file a copy of a resolution or order with the county clerk of each county in which the district is located. Each county clerk shall record the resolution or order. After the resolution or order is recorded, the excluded territory is no longer part of the district.

(k) If a majority of the votes in the election are against excluding the territory, the board may not act on a petition to exclude all or any part of the territory before the first anniversary of the date of the most recent election to exclude the territory.

(l) The exclusion of territory under this section does not diminish or impair the rights of the holders of any outstanding and unpaid bonds, warrants, or other district obligations. The district shall continue to impose taxes each year on the excluded territory at the same rate imposed on other territory in the district until the total amount of taxes collected from the excluded territory equals its pro rata share of the indebtedness of the district at the time the territory was excluded. The taxes collected under this subsection shall be applied only to the payment of the excluded territory's pro rata share of indebtedness. The owner of all or part of the excluded territory at any time may pay in full the owner's share of the excluded territory's pro rata share of the district's indebtedness at the time the territory was excluded.

(m) On or after the date on which the appropriate county clerk records the resolution or order excluding the territory from the district, the district or a fire department or ambulance service that contracts with the district is not required to provide to the excluded territory emergency service facilities, emergency services, or other services to protect the life and health of residents in the territory.

(n) For purposes of Subsection (o)(1), land ownership that is separated only by the claim of title by the state to the beds and banks of rivers or streams is considered contiguous. Land ownership that is separated by a farm-to-market road right-of-way, whether fee simple ownership or an easement, is not considered contiguous.

(o) In this section:

(1) "Planned community" means a planned community of 15,000 or more acres of land originally established under the Urban Growth and New Community Development Act of 1970 (42 U.S.C. Section 4501 et seq.) that is:

(A) located in a county adjacent to a county with a population of 2,800,000 or more according to the most recent federal census; and

(B) subject to restrictive covenants containing ad valorem based assessments on real property for use in part to finance services of the same general type provided by the district.

(2) "Territory in a planned community" means territory that:

(A) on the effective date of this section comprises all or part of a planned community; or

(B) on the effective date of this section is contiguous to a planned community and later becomes part of that planned community.

SECTION 2. Subchapter D, Chapter 794, Health and Safety Code, is amended by adding Section 794.0526 to read as follows:

Sec. 794.0526. EXCLUSION OF CERTAIN TERRITORY SUBJECT TO AD VALOREM ASSESSMENTS. (a) The board shall hold a hearing to consider the exclusion from the district of territory in a planned community if the board receives a petition requesting a hearing on the issue that is signed by at least five percent of the qualified voters residing in the territory proposed to be excluded from the district. A petition submitted under this subsection must describe the boundaries of the territory to be excluded from the district.

(b) The board shall give notice of a hearing under this section. The procedure under Section 794.015 for issuing notice of a hearing to create the district applies to the notice under this section. The notice must state:

(1) the boundaries of the territory proposed to be excluded;

(2) the time and place of the hearing; and

(3) that each person who has an interest in the exclusion or nonexclusion of the territory may attend the hearing and present the person's opinion for or against the exclusion of the territory.

(c) After the hearing, if the board finds that the entity responsible for administering and collecting the ad valorem based assessments in the territory to be excluded provides or contracts for the provision of substantially the same services as provided by the district, the board shall:

(1) order an election on the question of exclusion; or

(2) declare by resolution the territory excluded from the district.

(d) The board may not exclude territory by resolution if at least three percent of the qualified voters residing in the territory to be excluded from the district protest the exclusion in writing at the hearing.

(e) In a resolution excluding territory, the board shall describe the new boundaries of the district.

(f) The board shall order an election in the territory proposed to be excluded on the question of exclusion if:

(1) at least three percent of the qualified voters residing in the territory to be excluded protest the exclusion in writing at the hearing; or

(2) the board:

(A) despite the lack of a sufficient protest, refuses to exclude the territory; and

(B) not later than the 90th day after refusing to exclude the territory, receives a petition requesting an election that is signed by at least 10 percent of the qualified voters residing in the territory proposed to be excluded.

(g) Except as otherwise provided by the Election Code, the provisions of this chapter relating to the election creating the district apply to the election

notice, the manner and time of giving the notice, and the manner of holding the election under this section.

(h) For purposes of the election, the order calling the election shall divide the territory proposed to be excluded from the district into one or more precincts.

(i) If a majority of the votes in an election favor excluding the territory from the district, the board shall enter an order declaring the territory excluded from the district and describing the new boundaries of the district.

(j) The board shall file a copy of a resolution or order with the county clerk of each county in which the district is located. Each county clerk shall record the resolution or order. After the resolution or order is recorded, the excluded territory is no longer part of the district.

(k) If a majority of the votes in the election are against excluding the territory, the board may not act on a petition to exclude all or any part of the territory before the first anniversary of the date of the most recent election to exclude the territory.

(l) The exclusion of territory under this section does not diminish or impair the rights of the holders of any outstanding and unpaid bonds, warrants, or other district obligations. The district shall continue to impose taxes each year on the excluded territory at the same rate imposed on other territory in the district until the total amount of taxes collected from the excluded territory equals its pro rata share of the indebtedness of the district at the time the territory was excluded. The taxes collected under this subsection shall be applied only to the payment of the excluded territory's pro rata share of indebtedness. The owner of all or part of the excluded territory at any time may pay in full the owner's share of the excluded territory's pro rata share of the district's indebtedness at the time the territory was excluded.

(m) On or after the date on which the appropriate county clerk records the resolution or order excluding the territory from the district, the district or a fire department or ambulance service that contracts with the district is not required to provide to the excluded territory fire fighting facilities, fire extinguishment services, emergency rescue services, ambulance services, or other services to protect the life and property of residents in the territory from fire and to conserve natural and human resources.

(n) For purposes of Subsection (o)(1), land ownership that is separated only by the claim of title by the state to the beds and banks of rivers or streams is considered contiguous. Land ownership that is separated by a farm-to-market road right-of-way, whether fee simple ownership or an easement, is not considered contiguous.

(o) In this section:

(1) "Planned community" means a planned community of 15,000 or more acres of land originally established under the Urban Growth and New Community Development Act of 1970 (42 U.S.C. Section 4501 et seq.) that is:

(A) located in a county adjacent to a county with a population of 2,800,000 or more according to the most recent federal census; and

(B) subject to restrictive covenants containing ad valorem based assessments on real property for use in part to finance services of the same general type provided by the district.

(2) "Territory in a planned community" means territory that:

(A) on the effective date of this section comprises all or part of a planned community; or

(B) on the effective date of this section is contiguous to a planned community and later becomes part of that planned community.

SECTION 3. (a) The governmental proceedings and acts of the governing body of a rural fire prevention district relating to the exclusion of territory from the boundaries of the district subsequent to the ordering of an election for the conversion of the district to an emergency services district are validated as of the dates on which the proceedings and acts occurred. The validation includes any governmental proceeding or act relating to the calling and holding and the canvassing of the returns of the conversion election, including the results of the election.

(b) This section does not apply to any matter that on the effective date of this Act:

(1) is involved in litigation if the litigation ultimately results in the matter being held invalid by a court of competent jurisdiction; or

(2) has been held invalid by a final judgment of a court of competent jurisdiction.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Representative Williams moved to adopt the conference committee report on **HB 2850**.

A record vote was requested.

The motion prevailed by (Record 627): 145 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; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; 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; 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; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; 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).

Absent, Excused — Corte.

Absent — Flores; Wilson.

HB 2914 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Stiles submitted the following conference committee report on **HB 2914**:

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 2914** 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	Hightower
Gallegos	Place
Lindsay	Price
Nixon	Ramsay
Galloway	Stiles
On the part of the Senate	On the part of the House

HB 2914, A bill to be entitled An Act relating to the conveyance by the General Land Office of the state's interest in certain real property.

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

SECTION 1. (a) Except as provided by Subsection (b) of this section, the state shall grant and relinquish the state's right, title and interest in and to the real property described by Subsection (e) of this section to the City of Port Arthur if the City of Port Arthur pays the sum of \$25,000 to the General Land Office for the benefit of the permanent school fund. The commissioner of the General Land Office, on behalf of the state, shall convey the real property by issuing a patent to the City of Port Arthur.

(b) The commissioner of the General Land Office shall reserve:

(1) ownership of all oil, gas and other minerals in, on or beneath the real property and the right to lease, explore and develop the real property on behalf of the permanent school fund; and

(2) to the extent located on the real property, the easement and right-of-way described by Section 5(a), Chapter 219, Acts of the 54th Legislature, Regular Session, 1955.

(c) After the real property is conveyed to the City of Port Arthur as authorized by this section:

(1) the City of Port Arthur may hold the real property in the city's proprietary capacity;

(2) except as provided by Subsection (b) of this section, the real

property is not subject to a public use restriction or any other restriction on the use or disposition of the real property; and

(3) the City of Port Arthur may use, develop, lease, sell, option or convey all or part of the property for public or private purposes.

(d) All previous grants, leases, easements or other conveyances of the real property by the City of Port Arthur or the Pleasure Island Commission are confirmed. This Act does not affect the rights or title of any private person or governmental entity to any part of the real property. The patent issued by the commissioner of the General Land Office as authorized by this section enures to the benefit of the legal owners of the real property.

(e) The real property referred to in this section consists of tracts of land out of Sabine Lake, Jefferson County, Texas, described by metes and bounds in patents of record in the General Land Office, as follows:

(1) 1524.77 acres of land contained in three tracts, as described in Patent number 212, Volume 64A, file Jefferson-Scrip-594, authorized by Chapter 181, Special Laws, Acts of the 42nd Legislature, 1931, as amended by Chapter 170, Acts of the 61st Legislature, Regular Session, 1969;

(2) 14.7 acres of land, as described in Patent Number 409, Volume 53A, file Jefferson-Scrip-596, authorized by Chapter 22, Acts of the 43rd Legislature, 1st Called Session, 1933;

(3) 1877.94 acres of land, as described in Patent Number 80, Volume 26B, file Jefferson-Scrip-598, authorized by Chapter 219, Acts of the 54th Legislature, Regular Session, 1955; and

(4) 5920.82 acres of land contained in three tracts, as described in Patent Number 338, Volume 35B, file 153420, authorized by Chapter 206, Acts of the 60th Legislature, Regular Session, 1967.

SECTION 2. (a) The state revokes and cancels all grants made to the City of Port Arthur in and to the real property described by Subsection (c) of this section that were executed before the effective date of this Act.

(b) On the date the state cancels the patents issued to the City of Port Arthur, except for the property described by Section 1(e) of this Act, the real property becomes property of the permanent school fund.

(c) The real property referred to in Subsection (a) of this section consists of all real property commonly known as Pleasure Island, which is located in Jefferson County, Texas, that was conveyed to the City of Port Arthur by legislative act of this state before the effective date of this Act, excluding the real property described by Section 1(e) of this Act.

SECTION 3. After the Commissioner of the General Land Office issues the patent as authorized by Section 1 of this Act, the commissioner shall cancel the following patents:

(1) Patent Number 212, Volume 64A, file Jefferson-Scrip-594, issued January 12, 1937;

(2) Patent Number 409, Volume 53A, file Jefferson-Scrip-596, issued January 26, 1934;

(3) Patent Number 80, Volume 26B, file Jefferson-Scrip-598, issued March 5, 1956; and

(4) Patent Number 338, Volume 35B, file 153420, issued June 6, 1967.

SECTION 4. The following laws are repealed on the date the commissioner of the General Land Office issues the patent as authorized by Section 1 of this Act:

(1) Chapter 181, Special Laws, Acts of the 42nd Legislature, Regular Session, 1931;

(2) Chapter 22, Acts of the 43rd Legislature, 1st Called Session, 1933;

(3) Chapter 219, Acts of the 54th Legislature, Regular Session, 1955;

(4) Chapter 206, Acts of the 60th Legislature, Regular Session, 1967;

(5) Chapter 826, Acts of the 73rd Legislature, Regular Session, 1993;

and

(6) any law enacted before the effective date of this Act that is in conflict with this Act, to the extent of the conflict.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Representative Stiles moved to adopt the conference committee report on **HB 2914**.

A record vote was requested.

The motion prevailed by (Record 628): 145 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; 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; 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; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; 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); Hartnett; Siebert.

Absent, Excused — Corte.

HR 1318 - ADOPTED
(by Wolens)

The speaker laid before the house the following privileged resolution:

HR 1318

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 **HB 3207** to consider and take action on the following:

(1) House Rule 13, Section 9(a)(1), is suspended to permit the committee to amend Section 255.007, Election Code, to read as follows:

Sec. 255.007. NOTICE REQUIREMENT ON POLITICAL ADVERTISING SIGNS. (a) The following notice must be written on each political advertising sign:

"NOTICE: IT IS A VIOLATION OF STATE LAW (CHAPTERS 392 AND 393, TRANSPORTATION CODE) [~~ARTICLE 2372cc, VERNON'S TEXAS CIVIL STATUTES, AND ARTICLE 6674v-7, REVISED STATUTES~~], TO PLACE THIS SIGN IN THE RIGHT-OF-WAY OF A HIGHWAY."

(b) A person commits an offense if the person:

(1) knowingly enters into a contract to print or make a political advertising sign that does not contain the notice required by Subsection (a); or

(2) instructs another person to place a political advertising sign that does not contain the notice required by Subsection (a).

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

(d) It is an exception to the application of Subsection (b) that the political advertising sign was printed or made before September 1, 1997, and complied with Subsection (a) as it existed immediately before that date.

(e) In this section, "political advertising sign" means a written form of political advertising designed to be seen from a road but does not include a bumper sticker.

Explanation: This change is necessary to avoid conflicting language in Section 255.007, Election Code, as amended by H.B. No. 3207 and as amended by **HB 331**. The house has concurred in the senate amendments to **HB 331**.

(2) House Rule 13, Section 9(a)(1), is suspended to permit the committee to amend Section 159.001, Local Government Code, to read as follows:

Sec. 159.001. APPLICABILITY OF [~~COUNTY COVERED BY~~] SUBCHAPTER. This subchapter applies only to a county with a population of 100,000 [~~500,000~~] or more.

Explanation: This change is necessary to provide that Subchapter A, Chapter 159, Local Government Code, applies to county attorneys in counties of 100,000 or more. As amended by both the house and senate, Subchapter A, Chapter 159, Local Government Code, would apply to county attorneys in counties of 50,000 or more.

(3) House Rule 13, Sections 9(a)(1) and (2), are suspended to permit the committee to amend Section 159.002, Local Government Code, to read as follows:

Sec. 159.002. DEFINITION [~~DEFINITIONS~~]. In this subchapter, "county" [~~+~~

~~[(1) "Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, trust, or any other entity recognized by law through which business for profit is conducted.~~

~~[(2) "County or district] officer" means a county judge, county commissioner, or county attorney [~~district attorney, or criminal district attorney~~].~~

Explanation: This change is necessary because the section as amended by the house and senate defined "business entity," which is a term that is not used in amended Subchapter A, Chapter 159, Local Government Code.

(4) House Rule 13, Section 9(a)(1), is suspended to permit the committee to amend Section 159.009(d), Local Government Code (redesignated as Section 159.004(d), Local Government Code), to read as follows:

(d) The county clerk ~~[auditor]~~ may not grant an extension to a candidate for office as a county officer ~~[for a person required to file under this section].~~

Explanation: This change is necessary to conform to amended Section 159.003, Local Government Code, which requires only county officers or candidates for county office to file financial statements under Subchapter A, Chapter 159, Local Government Code, and requires a financial statement to be filed with the county clerk.

(5) House Rule 13, Section 9(a)(1), is suspended to permit the committee to amend added Section 159.005, Local Government Code, to read as follows:

Sec. 159.005. PREPARATION OF FORMS. (a) The county clerk, as applicable, may:

(1) design a form to be used for filing the financial statement required by this subchapter; or

(2) require that a form designed by the Texas Ethics Commission under Chapter 572, Government Code, be used for filing the financial statement.

(b) The county clerk shall mail two copies of the form to each person required to file under this subchapter within the time prescribed by Section 572.030(c), Government Code.

Explanation: This change is necessary to conform to amended Section 159.003, Local Government Code, which requires a financial statement to be filed with the county clerk.

(6) House Rule 13, Section 9(a)(1), is suspended to permit the committee to amend Section 159.010, Local Government Code (redesignated as Section 159.006, Local Government Code), to read as follows:

Sec. 159.006 [159.010]. DUPLICATE STATEMENTS. If a person has filed a financial statement under one provision of this subchapter covering the preceding calendar year, the person is not required to file a financial statement required under another provision of this subchapter to cover that same year if, before the deadline for filing the statement under the other provision, the person notifies the county clerk ~~[auditor]~~ in writing that the person has already filed a financial statement under this subchapter to cover that year.

Explanation: This change is necessary to conform to amended Section 159.003, Local Government Code, which requires a financial statement to be filed with the county clerk.

(7) House Rule 13, Section 9(a)(1), is suspended to permit the committee to amend Sections 159.013(a), (b), and (c), Local Government Code

(respectively redesignated as Sections 159.007(a), (b), and (c), Local Government Code), to read as follows:

(a) Financial statements filed under this subchapter are public records. The county clerk ~~[auditor]~~ shall maintain the statements in separate alphabetical files and in a manner that is accessible to the public during regular office hours.

(b) During the one-year period following the date of filing of a financial statement, each time a person, other than the county clerk ~~[auditor]~~ or an employee of the county clerk ~~[auditor]~~ who is acting on official business, requests to see the financial statement, the county clerk ~~[auditor]~~ shall place in the file a statement of the person's name and address, whom the person represents, and the date of the request. The county clerk ~~[auditor]~~ shall retain that statement in the file for one year after the date the requested financial statement is filed.

(c) The county clerk ~~[auditor]~~ may, and on notification from a former officer or candidate shall, destroy any financial statements filed by the officer or candidate two years after the date the person ceases to be an officer or candidate, as applicable.

Explanation: This change is necessary to conform to Section 159.003, Local Government Code, which requires a financial statement to be filed with the county clerk.

(8) House Rule 13, Section 9(a)(1), is suspended to permit the committee to amend Section 159.016, Local Government Code (redesignated as Section 159.010, Local Government Code), to read as follows:

Sec. 159.010 ~~[159.016]~~. CIVIL PENALTY. (a) A person who determines that a person required to file a financial statement under this subchapter has failed to do so may notify in writing:

(1) the county attorney or criminal district attorney; or

(2) the district attorney, if the person required to file the statement is the county attorney.

(b) On receipt of a written notice under Subsection (a), the county attorney, district attorney, or criminal district attorney ~~[The county auditor]~~ shall determine from any available evidence whether the person to whom the notice relates has failed to file a statement ~~[required to be filed under this subchapter is late]~~. On making that determination, the county attorney, district attorney, or criminal district attorney ~~[auditor]~~ shall immediately mail by certified mail a notice of the determination to the person responsible for filing the statement ~~[and to the county attorney or to the district or criminal district attorney]~~.

(c) [(b)] If [a statement is determined to be late,] the person responsible for filing the statement fails to file the statement before the 30th day after the person receives the notice under Subsection (b), the person is civilly liable to the county for an amount not to exceed \$1,000 ~~[\$100]~~. ~~[The county attorney or the district or criminal district attorney may not initiate suit for the penalty until the 10th day after the date the notice is mailed under this section. If the penalty is paid before the 10th day after the mailing, the county auditor shall notify the county attorney or the district or criminal district attorney, and the civil suit under this section may not be initiated.]~~

(d) [(c)] A penalty paid under this section shall be deposited to the credit of the general fund of the county.

(e) [(d)] This section is cumulative of any other available sanctions for late filings of statements.

Explanation: This change is necessary to conform to amended Section 159.003, Local Government Code, which requires only county officers or candidates for county office to file financial statements under Subchapter A, Chapter 159, Local Government Code.

(9) House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit SECTION 16 of the bill, repealing Section 159.031, Local Government Code.

Explanation: This change is necessary to retain current law, which provides that Subchapter B, Chapter 159, Local Government Code, applies only to a county with a population of 125,000 or more.

HR 1318 was adopted without objection.

HB 3207 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Wolens submitted the following conference committee report on **HB 3207**:

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 3207** 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	Wolens
Cain	Danburg
Ellis	Krusee
Duncan	McCall
Nelson	S. Turner
On the part of the Senate	On the part of the House

HB 3207, A bill to be entitled An Act relating to the regulation of political contributions and expenditures and political advertising, the registration of lobbyists, personal financial disclosure by certain holders of and candidates for public office, restrictions on certain representation before a state agency by a member of the legislature, and the publication of summaries of opinions of the Texas Ethics Commission; providing a civil penalty.

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

SECTION 1. Section 251.004, Election Code, is amended to read as follows:

Sec. 251.004. VENUE [~~FOR OFFENSES~~]. (a) Venue for a criminal offense prescribed by this title is in the county of residence of the defendant, unless the defendant is not a Texas resident, in which case venue is in Travis County.

(b) Venue for the recovery of delinquent civil penalties imposed by the commission under this title is in Travis County.

SECTION 2. Section 252.0032, Election Code, is amended to read as follows:

Sec. 252.0032. CONTENTS OF APPOINTMENT BY CANDIDATE.

(a) In addition to the information required by Section 252.002, a campaign treasurer appointment by a candidate must include:

(1) the candidate's telephone number; and

(2) a statement, signed by the candidate, that the candidate is aware of the nepotism law, Chapter 573, Government Code.

(b) A campaign treasurer appointment that is filed in a manner other than by use of an officially prescribed form is not invalid because it fails to comply with Subsection (a)(2) ~~[(a)]~~.

SECTION 3. Section 253.001, Election Code, is amended to read as follows:

Sec. 253.001. CONTRIBUTION ~~OR [AND]~~ EXPENDITURE IN ANOTHER'S NAME PROHIBITED. (a) A person may not knowingly make or authorize a political contribution ~~[or political expenditure]~~ in the name of or on behalf of another unless the person discloses in writing to the recipient the [other's] name and address of the person actually making the contribution in order for the recipient to make the proper disclosure [to be made].

(b) A person may not knowingly make or authorize a political expenditure in the name of or on behalf of another unless the person discloses in writing to the person on whose behalf the expenditure is made the name and address of the person actually making the expenditure in order for the person on whose behalf the expenditure is made to make the proper disclosure.

(c) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor.

SECTION 4. Section 253.034, Election Code, is amended to read as follows:

Sec. 253.034. RESTRICTIONS ON CONTRIBUTIONS DURING REGULAR LEGISLATIVE SESSION. (a) During the period beginning on the 30th day before the date a regular legislative session convenes and continuing through the day of final adjournment, a person may not knowingly make a political contribution to:

(1) a statewide officeholder;

(2) a member of the legislature; or

(3) a specific-purpose committee for supporting, opposing, or assisting a statewide officeholder or member of the legislature.

(b) A statewide officeholder, a member of the legislature, or a specific-purpose committee for supporting, opposing, or assisting a statewide officeholder or member of the legislature may not knowingly accept a political contribution, and shall refuse a political contribution that is received, during the period prescribed by Subsection (a). A political contribution that is received and refused during that period shall be returned to the contributor not later than the 30th day after the date of receipt. A contribution made by mail is not considered received during that period if it was placed with postage prepaid and properly addressed in the United States mail before the beginning of the period.

The date indicated by the post office cancellation mark is considered to be the date the contribution was placed in the mail unless proven otherwise.

(c) This section does not apply to a political contribution that was made and accepted with the intent that it be used:

(1) in an election held or ordered during the period prescribed by Subsection (a) in which the person accepting the contribution is a candidate if the contribution was made after the person appointed a campaign treasurer with the appropriate authority and before the person was sworn in for that office;

(2) to defray expenses incurred in connection with an election contest;

or

(3) by a person who holds a state office or a member of the legislature if the person or member was defeated at the general election held immediately before the session is convened or by a specific-purpose political committee that supports or assists only that person or member.

(d) This section does not apply to a political contribution made to or accepted by a holder of an office to which Subchapter F applies.

(e) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor.

SECTION 5. Section 253.0341(e), Election Code, is amended to read as follows:

(e) In this section, "legislative caucus" means an organization that is composed exclusively of members of the legislature, that elects or appoints officers and recognizes identified legislators as members of the organization, and that exists for research and other support of policy development and interests that the membership hold in common. The term includes an entity established by or for a legislative caucus to conduct research, education, or any other caucus activity. An organization whose only nonlegislator members are the lieutenant governor or the governor remains a "legislative caucus" for purposes of this section.

SECTION 6. Section 254.036(b), Election Code, is amended to read as follows:

(b) Each report filed under this chapter must be accompanied by an affidavit executed by the person required to file the report. The affidavit must contain the statement: "I swear, or affirm, under penalty of perjury, that the accompanying report is true and correct and includes all information required to be reported by me under Title 15, Election Code."

SECTION 7. Section 254.036, Election Code, is amended by adding Subsections (e)-(g) to read as follows:

(e) A report filed under this chapter is considered to be under oath by the person required to file the report regardless of the absence of or defect in the affidavit of verification, including a signature.

(f) A person required to file a report under this chapter is subject to prosecution under Chapter 37, Penal Code, regardless of the absence of or defect in the affidavit of verification.

(g) This section applies to a report that is filed electronically or otherwise.

SECTION 8. Section 254.040, Election Code, is amended to read as follows:

Sec. 254.040. PRESERVATION OF REPORTS; RECORD OF INSPECTION. (a) Each report filed under this chapter shall be preserved by

the authority with whom it is filed for at least two years after the date it is filed.

(b) Each time a person requests to inspect a report, the commission shall place in the file a statement of the person's name and address, whom the person represents, and the date of the request. The commission shall retain that statement in the file for one year after the date the requested report is filed. This subsection does not apply to a request to inspect a report by:

(1) a member or employee of the commission acting on official business; or

(2) an individual acting on the individual's own behalf.

SECTION 9. Section 255.006, Election Code, is amended to read as follows:

Sec. 255.006. MISLEADING USE OF OFFICE TITLE. (a) A person commits an offense if the person knowingly enters into a contract or other agreement to print, publish, or broadcast political advertising with the intent to represent to an ordinary and prudent person that a candidate holds a public office the candidate [he] does not hold at the time the agreement is made.

(b) A person commits an offense if the person knowingly represents in a campaign communication that a candidate holds a public office the candidate [he] does not hold at the time the representation is made.

(c) For purposes of this section, a person represents that a candidate holds a public office the candidate does not hold if:

(1) the candidate does not hold the office that the candidate seeks; and

(2) the political advertising or campaign communication states the public office sought but does not use the word "for" to clarify that the candidate does not hold that office.

(d) A person other than an officeholder commits an offense if the person knowingly uses a representation of the state seal in political advertising.

(e) ~~(f)~~ An offense under this section is a Class A misdemeanor.

SECTION 10. Section 255.007, Election Code, is amended to read as follows:

Sec. 255.007. NOTICE REQUIREMENT ON POLITICAL ADVERTISING SIGNS. (a) The following notice must be written on each political advertising sign:

"NOTICE: IT IS A VIOLATION OF STATE LAW (CHAPTERS 392 AND 393, TRANSPORTATION CODE) [~~ARTICLE 2372ee, VERNON'S TEXAS CIVIL STATUTES, AND ARTICLE 6674v-7, REVISED STATUTES~~], TO PLACE THIS SIGN IN THE RIGHT-OF-WAY OF A HIGHWAY."

(b) A person commits an offense if the person:

(1) knowingly enters into a contract to print or make a political advertising sign that does not contain the notice required by Subsection (a); or

(2) instructs another person to place a political advertising sign that does not contain the notice required by Subsection (a).

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

(d) It is an exception to the application of Subsection (b) that the political advertising sign was printed or made before September 1, 1997, and complied with Subsection (a) as it existed immediately before that date.

(e) In this section, "political advertising sign" means a written form of political advertising designed to be seen from a road but does not include a bumper sticker.

SECTION 11. Section 305.005(f), Government Code, is amended to read as follows:

(f) The registration must be written and verified and must contain:

(1) the registrant's full name and address;

(2) the registrant's normal business, business phone number, and business address;

(3) the full name and address of each person:

(A) who reimburses, retains, or employs the registrant to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action; and

(B) on whose behalf the registrant has communicated directly with a member of the legislative or executive branch to influence legislation or administrative action;

(4) the subject matter of the legislation or [and, if applicable, the docket number or other administrative designation] of the administrative action that is the subject of the registrant's direct communication with a member of the legislative or executive branch and, if applicable, the docket number or other administrative designation of the administrative action;

(5) for each person employed or retained by the registrant for the purpose of assisting in direct communication with a member of the legislative or executive branch to influence legislation or administrative action:

(A) the full name, business address, and occupation of the person; and

(B) the subject matter of the legislation or [and, if applicable, the docket number or other administrative designation] of the administrative action to which the person's activities reportable under this section were related and, if applicable, the docket number or other administrative designation of the administrative action; and

(6) the amount of compensation or reimbursement paid by each person who reimburses, retains, or employs the registrant for the purpose of communicating directly with a member of the legislative or executive branch or on whose behalf the registrant communicates directly with a member of the legislative or executive branch.

SECTION 12. Section 572.002(4), Government Code, is amended to read as follows:

(4) "Elected officer" means:

(A) a member of the legislature;

(B) an executive or judicial officer elected in a statewide election;

(C) a judge of a court of appeals or of a district court;

(D) a member of the State Board of Education; ~~or~~

(E) a district attorney or criminal district attorney; or

(F) an individual appointed to fill a vacancy in an office or appointed to a newly created office who, if elected to the office instead of appointed, would be an elected officer under this subdivision.

SECTION 13. Section 572.027(b), Government Code, is amended to read as follows:

(b) If the deadline under which a candidate files an application for a place on the ballot, other than the regular filing deadline for an independent candidate, or files a declaration of write-in candidacy falls after the date of the regular filing deadline for candidates in the general primary election, the candidate shall file the financial statement not later than the 30th day after that later deadline. However, if that deadline falls after ~~not later than~~ the 35th day before ~~after~~ the date of ~~on which~~ the election in which the candidate is running, the candidate shall file the statement not later than the fifth day before the date of that election.

SECTION 14. Section 572.030(c), Government Code, is amended to read as follows:

(c) The copies must be mailed:

(1) before the 30th day before the deadline for filing the financial statement under Section 572.026(a) or (c), except as otherwise provided by this subsection;

(2) not later than the 15th day after the applicable ~~filing~~ filing an application for a place on the ballot or a declaration of write-in candidacy for candidates required to file under Section 572.027(a), (b), or (c);

(3) not later than the seventh day after the date of appointment for individuals required to file under Section 572.026(b), or if the legislature is in session, sooner if possible; and

(4) not later than the fifth day after the date the certificate of nomination is filed for candidates required to file under Section 574.027(d).

SECTION 15. Section 572.052(a), Government Code, is amended to read as follows:

(a) A member of the legislature may not, for compensation, represent another person before a state agency in the executive branch of state government unless:

(1) the representation:

(A) is made in a proceeding that is adversary in nature or in another public hearing that is a matter of record; or

(B) ~~[(2) the representation]~~ involves the filing of documents, contacts with the agency, or other relations, that involve only ministerial acts on the part of the commission, agency, board, department, or officer; and

(2) the member discloses to the agency that the member is being compensated for the representation.

SECTION 16. Sections 2002.011 and 2002.012, Government Code, are amended to read as follows:

Sec. 2002.011. TEXAS REGISTER. The secretary of state shall compile, index, cross-index to statute, and publish a publication to be known as the Texas Register. The register shall contain:

(1) notices of proposed rules issued and filed in the office of the secretary of state as provided by Subchapter B of Chapter 2001;

(2) the text of rules adopted and filed in the office of the secretary of state;

(3) notices of open meetings issued and filed in the office of the secretary of state as provided by law;

- (4) executive orders issued by the governor;
- (5) summaries of requests for opinions of the attorney general and of the Texas [State] Ethics [Advisory] Commission;
- (6) summaries of opinions of the attorney general and of the Texas [State] Ethics [Advisory] Commission;
- (7) guidelines prepared by the attorney general under Section 2007.041;
- (8) notices relating to the preparation of takings impact assessments as provided by Section 2007.043; and
- (9) other information of general interest to the public of this state, including:

- (A) federal legislation or regulations affecting the state or a state agency; and

- (B) state agency organizational and personnel changes.

Sec. 2002.012. SUMMARIES OF OPINIONS AND REQUESTS FOR OPINIONS. The attorney general or the Texas [State] Ethics [Advisory] Commission, as appropriate, shall prepare and forward to the secretary of state for publication in the Texas Register:

- (1) summaries of requests for opinions under Section 2002.011(5); and
- (2) summaries of opinions under Section 2002.011(6).

SECTION 17. The heading to Chapter 159, Local Government Code, is amended to read as follows:

CHAPTER 159. FINANCIAL DISCLOSURE BY COUNTY
~~[OR DISTRICT] OFFICERS AND [COUNTY] EMPLOYEES~~

SECTION 18. Subchapter A, Chapter 159, Local Government Code, is amended to read as follows:

SUBCHAPTER A. FINANCIAL DISCLOSURE BY CERTAIN COUNTY
~~[OR DISTRICT] OFFICERS~~

Sec. 159.001. APPLICABILITY OF [COUNTY COVERED BY] SUBCHAPTER. This subchapter applies only to a county with a population of 100,000 ~~[500,000]~~ or more.

Sec. 159.002. DEFINITION [DEFINITIONS]. In this subchapter, "county[~~:~~":

- [~~(1)~~] "Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint stock company, receivership, trust, or any other entity recognized by law through which business for profit is conducted.

- [~~(2)~~] "County or district] officer" means a county judge, county commissioner, or county attorney[~~, district attorney, or criminal district attorney]~~.

Sec. 159.003. ~~[DETERMINATION OF SUBSTANTIAL INTEREST. A person has a substantial interest in a business entity if the person:~~

- [~~(1)~~] has controlling interest in the business entity;

- [~~(2)~~] has ownership in excess of 10 percent of the voting interest in the business entity or in excess of \$25,000 of the fair market value of the business entity;

- [~~(3)~~] has any participating interest, either direct or indirect, by shares, stock, or otherwise, whether or not voting rights are included, in the profits, proceeds, or capital gains of the business entity in excess of 10 percent of them;

- [~~(4)~~] holds the position of a member of the board of directors or other governing board of the business entity;

~~[(5) serves as an elected officer of the business entity; or~~

~~[(6) is an employee of the business entity.~~

~~[Sec. 159.004.] FINANCIAL STATEMENT REQUIRED. (a) A county [or district] officer or a candidate for a county [or district] office shall file a financial statement as required by this subchapter.~~

~~(b) The statement must [be]:~~

~~(1) be filed with the county clerk [auditor] of the county in which the officer or candidate resides; and~~

~~(2) comply with Sections 572.022 and 572.023, Government Code [filed on the form provided by the county auditor; and~~

~~[(3) verified].~~

~~[Sec. 159.005. CONTENTS OF FINANCIAL STATEMENT. (a) The financial statement must include an account of the financial activity of the county or district officer or candidate for a county or district office and an account of the financial activity of the person's spouse and dependent children if the person had actual control over that activity for the preceding calendar year.~~

~~(b) The account of financial activity consists of:~~

~~(1) a list of all sources of occupational income, identified by employer, or if self-employed, by the nature of the occupation, including identification of any person, business entity, or other organization from which the person or a business in which the person has a substantial interest received a fee as a retainer for a claim on future services in case of need, as opposed to a fee for services on a matter specified at the time of contracting for or receiving the fee, whenever professional or occupational services were not actually performed during the reporting period equal to or in excess of the amount of the retainer, and the category of the amount of the fee;~~

~~(2) identification by name and category of the number of shares of stock of any business entity held or acquired and, if sold, the category of the amount of net gain or loss realized from the sale;~~

~~(3) a list of all bonds, notes, and other commercial paper held or acquired and, if sold, the category of the amount of net gain or loss realized from the sale;~~

~~(4) identification of each source and the category of the amount of income in excess of \$500 derived per source from interest, dividends, royalties, and rents;~~

~~(5) identification of each person or financial institution to whom a personal note or notes for a total financial liability in excess of \$1,000 existed at any time during the year, and the category of the amount of the liability;~~

~~(6) identification by description of all beneficial interests in real property and business entities held or acquired and, if sold, the category of the amount of the net gain or loss realized from the sale;~~

~~(7) identification of any person, business entity, or other organization from which the person or the person's spouse or dependent children received a gift of money or property in excess of \$250 in value or a series of gifts of money or property, the total of which exceeds \$250 in value received from the same source, and a description of each gift, except gifts received from persons related to the person at any time within the second degree by consanguinity or affinity and campaign contributions that were reported as required by law;~~

~~[(8) identification of the source and the category of the amount of all income received as beneficiary of a trust and identification of each asset, if known to the beneficiary, from which income was received by the beneficiary in excess of \$500;~~

~~[(9) identification by description and category of the amount of all assets and liabilities of any corporation in which 50 percent or more of the outstanding stock was held, acquired, or sold; and~~

~~[(10) a list of all boards of directors of which the person is a member and executive positions that the person holds in corporations, firms, partnerships, and proprietorships, stating the name of each corporation, firm, partnership, or proprietorship and the position held.~~

~~[Sec. 159.006. REPORTING CATEGORIES. (a) If an amount is required to be reported by category, the person filing the statement shall report whether the amount is less than \$1,000, at least \$1,000 but less than \$5,000, or \$5,000 or more.~~

~~[(b) The person filing the statement shall report an amount of stock by category of number of shares instead of by category of dollar value and shall report whether the amount is less than 100 shares, at least 100 but less than 500 shares, or 500 shares or more.~~

~~[(c) The person filing the statement shall report a description of real property by the number of lots or number of acres, as applicable, in each county and the name of the county.~~

~~[Sec. 159.007. DETERMINATION OF DEPENDENT CHILD. A person's natural child, adopted child, or stepchild is the person's dependent child during a calendar year if the person provides over 50 percent of the child's support during the year.]~~

~~Sec. 159.004 [159.008]. FILING DATES; TIMELINESS OF FILING [FOR OFFICERS]. (a) A county officer shall file the financial statement required by this subchapter within the time prescribed by Section 572.026, Government Code. A candidate for office as a county officer shall file the financial statement required by this subchapter within the time prescribed by Section 572.027, Government Code.~~

~~(b) The timeliness of the filing is governed by Section 572.029, Government Code [Not later than the last Friday in April of each year, a county or district officer shall file the financial statement required by this subchapter].~~

~~[(b) A person who is appointed to a county or district office or to fill a vacancy in a county or district office shall file the first financial statement not later than the 30th day after the date of appointment.]~~

~~(c) A county [or district] officer may request the county clerk [auditor] to grant an extension of time of not more than 60 days for filing the statement. The county clerk [auditor] shall grant the request if it is received before the filing deadline or if a timely filing or request for extension is prevented because of physical or mental incapacity. The county clerk [auditor] may not grant more than one extension to a person in one year except for good cause shown.~~

~~[Sec. 159.009. FILING DATES FOR CANDIDATES. (a) Not later than the 40th day after the date of the regular filing deadline for an application for a place on the ballot in the general primary election, a person who is a candidate for a county or district office, whether partisan or independent, shall file the financial statement required by this subchapter.~~

~~[(b) If the deadline, other than the regular filing deadline for an independent candidate, under which a candidate files an application for a place on the ballot or a declaration of write-in candidacy falls after the date of the regular filing deadline for candidates in the general primary election, the candidate shall file the financial statement not later than the 30th day after that later deadline. However, if that deadline falls within 35 days of the date of the election in which the candidate is running, the candidate shall file the statement not later than the fifth day before that election.]~~

~~[(c) A person nominated as a replacement candidate to fill a vacancy in a party nomination for a county or district office shall file the financial statement not later than the 15th day after the date the certificate of the replacement nomination is filed.]~~

~~(d) The county clerk [auditor] may not grant an extension to a candidate for office as a county officer [for a person required to file under this section].~~

Sec. 159.005. PREPARATION OF FORMS. (a) The county clerk may:

(1) design a form to be used for filing the financial statement required by this subchapter; or

(2) require that a form designed by the Texas Ethics Commission under Chapter 572, Government Code, be used for filing the financial statement.

(b) The county clerk shall mail two copies of the form to each person required to file under this subchapter within the time prescribed by Section 572.030(c), Government Code.

Sec. 159.006 [159.010]. DUPLICATE STATEMENTS. If a person has filed a financial statement under one provision of this subchapter covering the preceding calendar year, the person is not required to file a financial statement required under another provision of this subchapter to cover that same year if, before the deadline for filing the statement under the other provision, the person notifies the county clerk [auditor] in writing that the person has already filed a financial statement under this subchapter to cover that year.

Sec. 159.007 [159.011]. TIMELINESS OF FILING. (a) The deadline for filing a financial statement required by this subchapter is 5 p.m. of the last day designated in the applicable provision for filing the statement.

~~[(b) If the last day for filing the financial statement is a Saturday, Sunday, or legal state or national holiday, the statement is timely if filed on the next regular business day.]~~

~~[(c) A financial statement is timely filed if it is properly addressed and placed in the United States Post Office or in the hands of a common or contract carrier not later than the last day for filing the financial statement. The post office cancellation mark or the receipt mark of a common or contract carrier is prima facie evidence of the date the statement was deposited with the post office or carrier. The person filing the statement may show by competent evidence that the actual date of posting was different from that shown by the marks.]~~

~~[Sec. 159.012. DUTIES OF COUNTY AUDITOR. (a) The county auditor shall prepare forms to be used for filing the financial statement under this subchapter that are substantially similar to the financial statement forms prepared by the secretary of state under Chapter 572, Government Code.]~~

~~[(b) Except as otherwise provided by this section, the county auditor shall~~

mail two copies of the financial statement form to each person in the county required to file under this subchapter.

~~[(c) The forms must be mailed not later than:~~

~~[(1) the 30th day before the deadline for filing the financial statement under Section 159.008(a);~~

~~[(2) the seventh day after the date of appointment for persons required to file under Section 159.008(b);~~

~~[(3) the 15th day after the deadline for filing an application for a place on the ballot or a declaration of write-in candidacy for candidates required to file under Sections 159.009(a) and (b); and~~

~~[(4) the fifth day after the date the certificate of the replacement nomination is filed for candidates required to file under Section 159.009(c).~~

~~[(d) The county auditor shall conduct a continuing survey to determine whether all persons required to file financial statements under this subchapter have actually filed statements in compliance with this subchapter.~~

~~[(e) If the county auditor determines that a person has failed to file the statement in compliance with this subchapter, the auditor shall send a written statement of the auditor's determination to the county attorney or to the district or criminal district attorney.~~

~~[Sec. 159.013]. PUBLIC ACCESS TO STATEMENTS. (a) Financial statements filed under this subchapter are public records. The county clerk [auditor] shall maintain the statements in separate alphabetical files and in a manner that is accessible to the public during regular office hours.~~

~~(b) During the one-year period following the date of filing of a financial statement, each time a person, other than the county clerk [auditor] or an employee of the county clerk [auditor] who is acting on official business, requests to see the financial statement, the county clerk [auditor] shall place in the file a statement of the person's name and address, whom the person represents, and the date of the request. The county clerk [auditor] shall retain that statement in the file for one year after the date the requested financial statement is filed.~~

~~(c) The county clerk [auditor] may, and on notification from a former officer or candidate shall, destroy any financial statements filed by the officer or candidate two years after the date the person ceases to be an officer or candidate, as applicable.~~

~~Sec. 159.008 [159.014]. CRIMINAL PENALTY. (a) A county [or district] officer or a candidate for county office commits an offense if the officer or candidate knowingly fails to file a financial statement as required by this subchapter.~~

~~(b) An offense under this section is a Class B misdemeanor.~~

~~(c) It is a defense to prosecution under this section that the officer or candidate did not receive copies of the financial statement form required to be mailed to the officer or candidate by this subchapter.~~

~~Sec. 159.009 [159.015]. VENUE. An offense under this subchapter, including perjury, may be prosecuted in any county in which it may be prosecuted under the Code of Criminal Procedure.~~

~~Sec. 159.010 [159.016]. CIVIL PENALTY. (a) A person who determines that a person required to file a financial statement under this subchapter has failed to do so may notify in writing:~~

(1) the county attorney or criminal district attorney; or
 (2) the district attorney, if the person required to file the statement is the county attorney.

(b) On receipt of a written notice under Subsection (a), the county attorney, district attorney, or criminal district attorney [~~The county auditor~~] shall determine from any available evidence whether the person to whom the notice relates has failed to file a statement [~~required to be filed under this subchapter is late~~]. On making that determination, the county attorney, district attorney, or criminal district attorney [~~auditor~~] shall immediately mail by certified mail a notice of the determination to the person responsible for filing the statement [~~and to the county attorney or to the district or criminal district attorney~~].

(c) [(b)] If [~~a statement is determined to be late,~~] the person responsible for filing the statement fails to file the statement before the 30th day after the person receives the notice under Subsection (b), the person is civilly liable to the county for an amount not to exceed \$1,000 [~~\$100~~]. [~~The county attorney or the district or criminal district attorney may not initiate suit for the penalty until the 10th day after the date the notice is mailed under this section. If the penalty is paid before the 10th day after the mailing, the county auditor shall notify the county attorney or the district or criminal district attorney, and the civil suit under this section may not be initiated;~~]

(d) [(e)] A penalty paid under this section shall be deposited to the credit of the general fund of the county.

(e) [(d)] This section is cumulative of any other available sanctions for late filings of statements.

SECTION 19. The amendments made by this Act to Subchapter A, Chapter 159, Local Government Code, apply only to a financial disclosure statement under that subchapter that is due on or after September 1, 1997. A financial statement under Subchapter A, Chapter 159, Local Government Code, that is due before September 1, 1997, is governed by the law in effect at the time the financial statement was due, and the former law is continued in effect for that purpose.

SECTION 20. Section 254.036, Election Code, as amended by this Act, applies only to a report under Chapter 254, Election Code, that is required to be filed on or after September 1, 1997. A report under Chapter 254, Election Code, that is required to be filed before September 1, 1997, is governed by the law in effect on the date the report is required to be filed, and that law is continued in effect for that purpose.

SECTION 21. A district attorney or criminal district attorney shall file a personal financial statement for 1997 with the Texas Ethics Commission under Chapter 572, Government Code, as if subject to that chapter for the entire year. A district attorney or criminal district attorney who was subject to Subchapter A, Chapter 159, Local Government Code, as that subchapter existed before amendment by this Act, is not required to file a personal financial statement for 1997 under that subchapter.

SECTION 22. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For the purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 23. This Act takes effect September 1, 1997.

SECTION 24. 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 Wolens moved to adopt the conference committee report on **HB 3207**.

The motion prevailed.

HR 1340 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1340**, suspending the limitations on the conferees for **SB 1898**.

HB 3540 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Price submitted the following conference committee report on **HB 3540**:

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 3540** 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.

Galloway	Price
Gallegos	Counts
Patterson	Edwards
Nixon	McClendon
Armbrister	Roman
On the part of the Senate	On the part of the House

HB 3540, A bill to be entitled An Act relating to the election of commissioners of the Port of Beaumont Navigation District of Jefferson County.

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

SECTION 1. Sections 9(a) and (d), Chapter 147, Acts of the 51st Legislature, Regular Session, 1949, are amended to read as follows:

(a) Commissioners serve staggered four-year [~~six-year~~] terms with the terms of three [~~two~~] commissioners expiring every two years.

(d) One commissioner shall be elected from each of the four wards established under Section 10 of this Act by the qualified voters of that ward. Two commissioners shall be elected at large by the qualified voters of the district [Commissioners are elected by the voters of the District at large, and each ward is entitled to representation on the Board of Port Commissioners by a resident of the ward].

SECTION 2. On the first Saturday in May 1999, an election shall be held to elect all six commissioners of the Port of Beaumont Navigation District of Jefferson County, one commissioner elected at large and two commissioners each elected from a ward to serve for two years and one commissioner elected at large and two commissioners each elected from a ward to serve for four years. The persons elected shall draw lots to determine the length of their terms. Commissioners elected in subsequent elections serve four-year terms.

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 Price moved to adopt the conference committee report on **HB 3540**.

A record vote was requested.

The motion prevailed by (Record 629): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; 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; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; 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; Yarbrough; Zbrank.

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

Absent, Excused — Corte.

Absent — Bosse; Woolley.

SB 1 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative R. Lewis submitted the conference committee report on **SB 1**.

SB 1 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE KEEL: There are a few questions I would like to ask you about the impact on central Texas. You were the chairman of the Edwards Aquifer legislation and you know probably more than any other member about its various segments including the Barton Springs segment. It's a very important resource. Does **SB 1** in any way diminish the need to protect the quantity and quality of water in the Edwards Aquifer or the Barton Springs segment of the Edwards Aquifer?

REPRESENTATIVE R. LEWIS: No it does not.

KEEL: In fact, Chairman Lewis, the legislature has been very closely involved with the Edwards Aquifer. To that end, the Texas Natural Resource Conservation Commission (TNRCC) has promulgated rules to protect the water quality in the aquifer with balanced attention being given to various considerations to the state for promoting commerce and preserving resources. Does **SB 1** in any way diminish the requirement to protect the quality of the aquifer using this balanced approach?

R. LEWIS: No it does not, Representative Keel, and I think if nothing else the intent of this legislature is that water be protected from all avenues and areas within that aquifer.

KEEL: The state over a number of years has also created a number of reclamation districts and conservation districts to implement the safeguards of the state's interest in that important resource of water, including the Edwards Aquifer Authority, the Barton Springs Edwards Aquifer Conservation District, the Southwest Travis County Water District. Does **SB 1** continue the philosophy that the use of conservation reclamation districts is appropriate to safeguard this important resource?

R. LEWIS: That is correct and, hopefully, strengthens it.

REMARKS ORDERED PRINTED

Representative Keel moved to print remarks by Representatives Keel and R. Lewis establishing legislative intent for **SB 1**.

The motion prevailed without objection.

LEAVE 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.

SB 1 - (consideration continued)

Representative R. Lewis moved to adopt the conference committee report on **SB 1**.

A record vote was requested.

The motion prevailed by (Record 630): 140 Yeas, 4 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Coleman; Cook; Counts; 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; Haggerty; Hamric; Hartnett; Hawley; 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; Moreno; Mowery; Naishtat; Nixon; Oakley; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; 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; Woolley; Yarbrough; Zbranek.

Nays — Clark; Crabb; Heflin; Rabuck.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Gutierrez.

Absent — Oliveira; Wolens.

STATEMENT OF VOTE

When Record No. 630 was taken, I was in the house but away from my desk. I would have voted yes.

Wolens

SB 1 - STATEMENT BY REPRESENTATIVE PUENTE

SB 1 is a good bill for the State of Texas and provides for a future of both regional and statewide planning and conservation of our water resources. The framework established in this legislation is badly needed and this sweeping update of state law on water will serve the state well. However, with one provision of **SB 1**, a poor policy choice has been made for our state's future water resource management. The provision stating that any interbasin transfer of water is junior in priority to water rights already granted presents a major obstacle to the state's ability to develop additional water resources and hinders our goal of providing for the entire state's long-term water needs. It is with this reservation that I will vote for the bill.

Puente

INTRODUCTION OF GUEST

The speaker introduced Senator J. E. "Buster" Brown who spoke on **SB 1**.

SB 20 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Thompson submitted the conference committee report on **SB 20**.

Representative Thompson moved to adopt the conference committee report on **SB 20**.

The motion prevailed. (Heflin recorded voting no)

SB 30 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Maxey submitted the conference committee report on **SB 30**.

Representative Maxey moved to adopt the conference committee report on **SB 30**.

A record vote was requested.

The motion prevailed by (Record 631): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Chavez; Chisum; Christian; Clark; Cook; 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; 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; Price; 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.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Gutierrez.

Absent — Carter; Coleman.

HR 1352 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1352**, suspending the limitations on the conferees for **SB 1873**.

SB 35 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Place submitted the conference committee report on **SB 35**.

Representative Place moved to adopt the conference committee report on **SB 35**.

The motion prevailed.

SB 343 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Stiles submitted the conference committee report on **SB 343**.

Representative Stiles moved to adopt the conference committee report on **SB 343**.

The motion prevailed.

SB 383 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Smithee submitted the conference committee report on **SB 383**.

Representative Smithee moved to adopt the conference committee report on **SB 383**.

A record vote was requested.

The motion prevailed by (Record 632): 146 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; 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; 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; Price; 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.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Gutierrez.

SB 414 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Coleman submitted the conference committee report on **SB 414**.

SB 414 - STATEMENT BY REPRESENTATIVE MOWERY

Mr. Speaker, members, I've had a little more experience with this kind of thing than most of you in this chamber. I am strongly right to life—I believe abortion is murder, but I believe also in the right to die. I think those who want to prolong life past the time that the good Lord wishes to take them is interfering with God's decision. It is not easy to convince a doctor to restrain themselves from extraordinary means. I've been through it with a sister who

died of cancer. I've been through it with a mother-in-law who was ill for a very long time. I've been through it with the mother of my son-in-law, and I've been through it with my mother.

This bill is very important to allow people to have the God-given right to die. It is not a right to life issue. It is the reverse. It is just as sacred to be allowed to die as it is to be allowed to be born. I think there have been some terrible misunderstandings in the right to life movement, of which I am a member. I do not think they understand the issue at all. And I plead with you all to make it possible for people to die with dignity, to die without prolonged pain, to die when the good Lord takes them, and not have to wait hooked up to mechanical devices, feeding tubes, and pure agony for months.

Doctors are very much afraid of letting people die. It didn't used to be that way. I am 66 years old; there used to be a way you said: this person's going, don't prolong their misery. That has not been lately because of lawsuits, maybe because we pay money to keep people in the hospital, I don't know why. But this bill is important because it does codify law that makes it possible for people to die. I will defend any of you who think you're going to get into trouble with the right to life people over this issue because I know it is very important for people to be allowed to die when the good Lord calls them.

Representative Coleman moved to adopt the conference committee report on **SB 414**.

The motion prevailed. (Christian, Clark, Culberson, Delisi, Finnell, Hartnett, Heflin, Holzheuser, Horn, Howard, Isett, Keel, Keffer, Kubiak, Marchant, Rabuck, E. Reyna, Shields, Smith, Solomons, and Talton recorded voting no)

REMARKS ORDERED PRINTED

Representative Uher moved to print remarks by Representative Mowery speaking in favor of **SB 414**.

The motion prevailed without objection.

HR 1348 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1348**, suspending the limitations on the conferees for **SB 932**.

SB 862 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Holzheuser submitted the conference committee report on **SB 862**.

Representative Holzheuser moved to adopt the conference committee report on **SB 862**.

The motion prevailed.

SB 1098 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Goodman submitted the conference committee report on **SB 1098**.

Representative Goodman moved to adopt the conference committee report on **SB 1098**.

The motion prevailed.

SB 1310 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Janek submitted the conference committee report on **SB 1310**.

Representative Janek moved to adopt the conference committee report on **SB 1310**.

A record vote was requested.

The motion prevailed by (Record 633): 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; 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; 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; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Place; Price; 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.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Gutierrez.

Absent — Krusee; Moffat; Pitts.

SB 1311 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Cuellar submitted the conference committee report on **SB 1311**.

Representative Cuellar moved to adopt the conference committee report on **SB 1311**.

The motion prevailed.

SB 1907 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Swinford submitted the conference committee report on **SB 1907**.

Representative Swinford moved to adopt the conference committee report on **SB 1907**.

A record vote was requested.

The motion prevailed by (Record 634): 141 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; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; Hochberg; Hodge; 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; Place; Puente; Rabuck; 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.

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

Absent, Excused — Corte; Gutierrez.

Absent — Delisi; Pitts; Price; Ramsay.

HB 1107 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Telford submitted the following conference committee report on **HB 1107**:

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 1107** 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.

Moncrief

Telford

Ratliff

Gray

Barrientos

Bosse

Lucio

Goolsby

Harris

Chisum

On the part of the Senate

On the part of the House

HB 1107, A bill to be entitled an act relating to the continuation and functions of the State Preservation Board.

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

SECTION 1. Section 443.002, Government Code, is amended to read as follows:

Sec. 443.002. SUNSET PROVISION. The State Preservation Board is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2007 [1997].

SECTION 2. Sections 443.003(c) and (e), Government Code, are amended to read as follows:

(c) The board [~~committee~~] functions performed by the governor, lieutenant governor, speaker of the house of representatives, and appointed senator and representative are additional functions of their other public offices.

(e) The governor, lieutenant governor, and speaker, as a member of the board, may designate a representative to act, including the ability to vote, on behalf of the member during a board meeting. [~~The chairman of the permanent advisory committee established under Section 443.008(a) serves as an ex officio, nonvoting member of the board.~~]

SECTION 3. Section 443.005(a), Government Code, is amended to read as follows:

(a) The board may [~~shall~~] employ an architect of the Capitol who serves under the direction of the board.

SECTION 4. Subsection (b), Section 443.006, Government Code, is amended to read as follows:

(b) The curator of the Capitol shall:

(1) assist in matters dealing with the preservation of historic materials;
 (2) develop and maintain a registration system and inventory of the contents of the Capitol and the General Land Office Building and their grounds and of the original documents relating to the buildings' construction and alteration;

(3) develop a program to purchase or accept by donation, permanent loan, or outside funding items of historical significance that were at one time in the buildings and that are not owned by the state;

(4) develop a program to locate and acquire state-owned items of historical significance that were at one time in the buildings;

(5) develop a collections policy regarding the items of historic significance as identified in the registration system and inventory for the approval of [~~the permanent advisory committee and~~] the board;

(6) make recommendations on conservation needs and make arrangements to contract for conservation services for objects of significance;

(7) make recommendations for the transfer or loan of objects of significance as detailed in the approved collections policy;

(8) develop for board approval a furnishings plan for the placement and care of objects under the care of the curator;

(9) make recommendations to transfer, sell, or otherwise dispose of unused surplus property that is not of significance as defined in the collections

policy and by the registration system and inventory prepared by the curator, in the manner provided by Chapter 2175 [Article 9, State Purchasing and General Services Act (Article 601b, Vernon's Texas Civil Statutes)];

(10) approve all exhibits placed in the buildings; and

(11) make a good-faith effort, with the board and the architect, to assist Texas businesses to receive a significant percentage of the total value of all contract awards for the purchase of supplies, materials, services, and equipment that are made throughout the duration of the restoration project.

SECTION 5. Section 443.0101, Government Code, is amended by adding Subsection (d) to read as follows:

(d) The state auditor shall annually review the report required by Subsection (c) and any information used in preparing the report as determined necessary and shall report any findings or recommendations to the board and the legislative audit committee.

SECTION 6. Sections 443.013(b) and (d), Government Code, are amended to read as follows:

(b) The board may charge a vendor a reasonable fee or a percentage of gross or net sales for the right to operate in the Capitol and may charge a royalty on items sold. Revenue received under this section shall be deposited in the Capitol fund. Revenue received from a food service vendor under this section shall be deposited to the credit of a separate account in the fund. Money[-, and money] in the account may be spent [used] only for the purchase and maintenance of equipment, furnishings, and space related to food service in the Capitol. To the extent the balance in the account exceeds \$300,000, the excess may be transferred with board approval to another account and may be spent for any purpose within the board's jurisdiction.

(d) The board may establish, manage, and operate gift and souvenir shops in the Capitol and in the General Land Office Building. The board may deposit money it receives under this subsection to the credit of a separate account in the Capitol fund. Money [and may spend money] in the account may be spent only for[:

[(+)] the benefit of the buildings and the contents and grounds of the buildings, [;

[(2)] educational programs related to the General Land Office Building and the historical portion of the Capitol, [;] and the

[(3)] operation of the gift and souvenir shops and a Capitol Complex visitors center in the General Land Office Building.

SECTION 7. Section 443.0131, Government Code, is amended to read as follows:

Sec. 443.0131. RENTAL OF SPACE TO NEWS MEDIA. (a) The board may set and collect a fee from news media representatives for the rental of space in the Capitol. The fee shall be set in an amount designed to recover the board's costs in furnishing and maintaining the space.

(b) The board shall deposit money received under this section to the credit of a separate account in the Capitol fund.

(c) Money in the account may be spent [used] only to maintain and furnish the space rented to news media representatives. To the extent the balance in the account exceeds \$50,000, the excess may be transferred with board approval

to another account and may be spent for any purpose within the board's jurisdiction.

SECTION 8. Chapter 443, Government Code, is amended by adding Sections 443.021, 443.022, and 443.023 to read as follows:

Sec. 443.021. STATE MUSEUM. The board is authorized to develop and construct, from funds appropriated for that purpose, a state history museum to be located within the Capitol complex. In this section, "Capitol complex" has the meaning assigned by Section 443.0071.

Sec. 443.022. AUDITS. (a) The transactions, funds, and programs of the board are subject to audit by the state auditor in accordance with Chapter 321.

(b) The state auditor may review the performance of the management of the board by conducting an economy and efficiency audit under Section 321.0133 and an effectiveness audit under Section 321.0134. The scope and frequency of such audits shall be determined in consultation with the legislative audit committee.

(c) The state auditor shall perform a comprehensive audit of the transactions, funds, and programs of the board and report its findings to the board and the legislative audit committee not later than December 1, 1998. This subsection expires January 1, 1999.

Sec. 443.023. PURCHASE AND LEASE REQUIREMENTS FOR CERTAIN EXPENDITURES. Subtitle D, Title 10, does not apply to a purchase or lease described by this subsection. The executive director, as appropriate, may approve in writing the purchase or lease of goods and services needed to repair or improve an area within the Capitol, Capitol extension, Capitol grounds, or General Land Office building, if the cost of the purchase or lease will not exceed \$15,000.

SECTION 9. This Act takes effect September 1, 1997.

SECTION 10. 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 Telford moved to adopt the conference committee report on **HB 1107**.

The motion prevailed. (Finnell and E. Reyna recorded voting no)

SB 247 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Culberson submitted the conference committee report on **SB 247**.

Representative Culberson moved to adopt the conference committee report on **SB 247**.

The motion prevailed.

SB 385 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Smithee submitted the conference committee report on **SB 385**.

Representative Smithee moved to adopt the conference committee report on **SB 385**.

The motion prevailed.

HB 793 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Merritt submitted the following conference committee report on **HB 793**:

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 793** 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.

Harris	Merritt
Ellis	Stiles
Ratliff	Ramsay
Cain	Bonnen
On the part of the Senate	On the part of the House

HB 793, A bill to be entitled An Act relating to notice that entry on property is forbidden for the purpose of prosecuting the offense of trespass.

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

SECTION 1. Section 30.05(b), Penal Code, is amended by amending Subdivision (2) and by adding Subdivision (4) to read as follows:

(2) "Notice" means:

(A) oral or written communication by the owner or someone with apparent authority to act for the owner;

(B) fencing or other enclosure obviously designed to exclude intruders or to contain livestock;

(C) a sign or signs posted on the property or at the entrance to the building, reasonably likely to come to the attention of intruders, indicating that entry is forbidden; [or]

(D) the placement of identifying purple paint marks on trees or posts on the property, provided that the marks are:

(i) vertical lines of not less than eight inches in length and not less than one inch in width;

(ii) placed so that the bottom of the mark is not less than three feet from the ground or more than five feet from the ground; and

(iii) placed at locations that are readily visible to any person approaching the property and no more than:

(a) 100 feet apart on forest land; or

(b) 1,000 feet apart on land other than forest land; or

(E) the visible presence on the property of a crop grown for human consumption that is under cultivation, in the process of being harvested, or marketable if harvested at the time of entry.

(4) "Forest land" means land on which the trees are potentially valuable for timber products.

SECTION 2. Section 30.05, Penal Code, is amended by adding Subsection (e) to read as follows:

(e) A person does not have or receive notice under Subsection (b)(2)(D) unless a sign is placed at each entrance for vehicles to the property that gives notice that the presence of purple paint marks on trees or posts on the property indicates that entry is forbidden. The sign required under this subsection must be not less than two feet by three feet in size with block letters at least two inches in height. This subsection expires September 1, 1998.

SECTION 3. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) In the prosecution of an offense in which it is alleged that the defendant had or received notice as described by Section 30.05(e), Penal Code, as added by this Act, Section 30.05(e) is continued in effect after September 1, 1998, but only if every element of the alleged offense occurred before September 1, 1998.

(c) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 4. This Act takes effect September 1, 1997.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Representative Merritt moved to adopt the conference committee report on **HB 793**.

The motion prevailed.

HB 1285 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Van de Putte submitted the following conference committee report on **HB 1285**:

Austin, Texas, May 31, 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 1285** 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.

Wentworth

Van de Putte

Ellis

Dukes

Carona

Janek

Cain

Rhodes

Lindsay

Woolley

On the part of the Senate

On the part of the House

HB 1285, A bill to be entitled An Act relating to the meetings of a condominium board or association.

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

SECTION 1. Section 82.002(c), Property Code, is amended to read as follows:

(c) This section and the following sections apply to a condominium in this state for which the declaration was recorded before January 1, 1994: Sections 82.005, 82.006, 82.007, 82.053, 82.054, 82.102(a)(1)-(7) and (12)-(22), 82.108, 82.111, 82.113, 82.114, 82.116, 82.157, and 82.161. The definitions prescribed by Section 82.003 apply to a condominium in this state for which the declaration was recorded before January 1, 1994, to the extent the definitions do not conflict with the declaration. The sections listed in this subsection apply only with respect to events and circumstances occurring on or after January 1, 1994, and do not invalidate existing provisions of the declaration, bylaws, or plats or plans of a condominium for which the declaration was recorded before January 1, 1994.

SECTION 2. Subchapter B, Chapter 82, Property Code, is amended by adding Section 82.070 to read as follows:

Sec. 82.070. MEETING AT WHICH AMENDMENTS MAY BE ADOPTED. (a) An association or a board may not meet to adopt an amendment or other change to the declaration, articles of incorporation, bylaws, or rules of the association unless the association or board has given to each unit owner a document showing the specific amendment or other change that would be made to the declaration, articles of incorporation, bylaws, or rules.

(b) The information described by Subsection (a) must be given to each unit owner after the 20th day but before the 10th day preceding the date of the meeting. The information is considered to have been given to a unit owner on the date the information is personally delivered to the unit owner, as shown by a receipt signed by the unit owner, or on the date shown by the postmark on the information after it is deposited in the United States mail with a proper address and postage paid.

SECTION 3. Section 82.108, Property Code, is amended to read as follows:

Sec. 82.108. MEETINGS. (a) Meetings of the association must be held at least once each year. Unless the declaration provides otherwise, special meetings of the association may be called by the president, a majority of the board, or unit owners having at least 20 percent of the votes in the association. [~~Notice of a meeting shall be given in accordance with the bylaws.~~]

(b) Meetings of the association and board must be open to unit owners, subject to the right of the board to adjourn a meeting of the board and reconvene in closed executive session to consider actions involving personnel, pending litigation, contract negotiations, enforcement actions, matters involving the invasion of privacy of individual unit owners, or matters that are to remain confidential by request of the affected parties and agreement of the board. The general nature of any business to be considered in executive session must first be announced at the open meeting.

(c) Unless the declaration, bylaws, or articles of incorporation of the association provide otherwise:

(1) a meeting of the board may be held by any method of communication, including electronic and telephonic, if:

(A) notice of the meeting has been given in accordance with Subsection (e);

(B) [by which] each director may hear and be heard by every other director; and

(C) the meeting does not involve voting on a fine, damage assessment, appeal from a denial of architectural control approval, or suspension of a right of a particular association member before the member has an opportunity to attend a board meeting to present the member's position, including any defense, on the issue; and

(2) [in lieu of a meeting,] the board may act by unanimous written consent [consents] of all the directors, without a meeting, if:

(A) the board action does not involve voting on a fine, damage assessment, appeal from a denial of architectural control approval, or suspension of a right of a particular association member before the member has an opportunity to attend a board meeting to present the member's position, including any defense, on the issue; and

(B) a record of the board action is [to be] filed with the minutes of board meetings.

(d) Notice of a meeting of the association must be given as provided by the bylaws, or, if the bylaws do not provide for notice, notice must be given to each unit owner in the same manner in which notice is given to members of a nonprofit corporation under Section A, Article 2.11, Texas Non-Profit Corporation Act (Article 1396-2.11, Vernon's Texas Civil Statutes).

(e) Notice of a meeting of the board must be given as provided by the bylaws, or, if the bylaws do not provide for notice, notice must be given to each board member in the same manner in which notice is given to members of the board of a nonprofit corporation under Section B, Article 2.19, Texas Non-Profit Corporation Act (Article 1396-2.19, Vernon's Texas Civil Statutes).

(f) An association, on the written request of a unit owner, shall inform the unit owner of the time and place of the next regular or special meeting of the board. If the association representative to whom the request is made does not know the time and place of the meeting, the association promptly shall obtain the information and disclose it to the unit owner or inform the unit owner where the information may be obtained.

SECTION 4. (a) The changes in law made by this Act to Chapter 82, Property Code, apply only to:

(1) a meeting held on or after January 1, 1998, in relation to a condominium; and

(2) a request made on or after January 1, 1998, to a condominium owners' association for the time and place of the next meeting of the board of directors of the association.

(b) A meeting held before January 1, 1998, is governed by the law in effect immediately preceding that date, and the former law is continued in effect for that purpose.

SECTION 5. This Act takes effect January 1, 1998.

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 Van de Putte moved to adopt the conference committee report on **HB 1285**.

The motion prevailed.

HB 1525 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Oliveira submitted the following conference committee report on **HB 1525**:

Austin, Texas, May 31, 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 1525** 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.

Sibley	Oliveira
Ratliff	Seaman
Ellis	Yarbrough
On the part of the Senate	On the part of the House

HB 1525, A bill to be entitled An Act relating to voter authorization for additional projects by certain economic development corporations.

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

SECTION 1. Section 4A, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended by adding Subsection (s) to read as follows:

(s)(1) A city that creates or has created a corporation governed by this section may submit to the voters of the city, at a separate election to be held on a uniform election date or at an election held under another provision of this Act, including the election at which the proposition to initially authorize the collection of a sales and use tax for the benefit of the corporation is submitted, a ballot proposition that authorizes the corporation to use the sales and use tax, including any amount previously authorized and collected, for a specific project or for a specific category of projects that does not qualify under this section but qualifies under Section 4B of this Act. Prior approval of a specific project at an election or completion of a specific project approved at an election does not prohibit a city from seeking voter approval of an additional project or category of projects under this subsection to be funded from the same sales and use tax.

(2) In the election to authorize the use of the sales or use tax for a specific project or for a specific category of projects not authorized under this

section, the project or category of projects must be clearly described on the ballot so that a voter will be able to discern the limits of the specific project or category of projects authorized by the proposition. If maintenance and operating costs of an otherwise authorized facility are to be paid from the sales or use tax, the ballot language must clearly state that fact.

(3) Before an election may be held under this subsection, a public hearing shall be held in the city to inform the residents of the city of the cost and impact of the project or category of projects. At least 30 days before the date set for the hearing, a notice of the date, time, place, and subject of the hearing shall be published in a newspaper with general circulation in the city in which the project is located. The notice should be published on a weekly basis until the date of the hearing.

(4) If a majority of the voters voting on the issue do not approve a specific project or a specific category of projects at an election under this subsection, another election may not be held on the same project or category of projects before the first anniversary of the date of the most recent election disapproving the project or category of projects.

(5) Projects undertaken under this subsection are governed by the provisions of this section including the provisions relating to the authorization and expiration of any sales and use tax.

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 Oliveira moved to adopt the conference committee report on **HB 1525**.

The motion prevailed.

HB 1526 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Oliveira submitted the following conference committee report on **HB 1526**:

Austin, Texas, May 31, 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 1526** 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.

Sibley
Ratliff
Ellis

Oliveira
Luna
Raymond
Seaman
Yarbrough

On the part of the Senate

On the part of the House

HB 1526, A bill to be entitled An Act relating to information and assistance concerning reinvestment zones.

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

SECTION 1. Section 312.005, Tax Code, is amended to read as follows:

Sec. 312.005. STATE ADMINISTRATION. (a) The comptroller [~~Texas Department of Commerce~~] shall maintain a central registry of reinvestment zones designated under this chapter and of ad valorem tax abatement agreements executed under this chapter. Each taxing unit that designates a reinvestment zone or executes a tax abatement agreement under this chapter shall deliver to the [~~department and to the~~] comptroller before April 1 of the year following the year in which the zone is designated or the agreement is executed a report providing the following information:

(1) for a reinvestment zone, a general description of the zone, including its size, the types of property located in it, its duration, and the guidelines and criteria established for the reinvestment zone under Section 312.002, including subsequent amendments and modifications of the guidelines or criteria;

(2) a copy of each tax abatement agreement to which the taxing unit is a party; and

(3) any other information required by the comptroller to administer this section and Subchapter F, Chapter 111.

(b) The comptroller [~~department~~] may provide assistance to a taxing unit on request of its governing body or the presiding officer of its governing body relating to the administration of this chapter. The Texas Department of Commerce and the comptroller may provide technical assistance to a local governing body regarding [~~including~~] the designation of reinvestment zones, the adoption of tax abatement guidelines, and the execution of tax abatement agreements.

SECTION 2. This Act takes effect September 1, 1997.

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 Oliveira moved to adopt the conference committee report on **HB 1526**.

The motion prevailed.

HB 1596 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hochberg submitted the following conference committee report on **HB 1596**:

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 1596** 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.

Moncrief	Hochberg
Corona	Chavez
Gallegos	Davila
	McReynolds
	Naishtat
On the part of the Senate	On the part of the House

HB 1596, A bill to be entitled An Act relating to unlicensed personal care facilities; providing a civil penalty.

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

SECTION 1. Section 247.021, Health and Safety Code, is amended to read as follows:

Sec. 247.021. LICENSE REQUIRED. (a) A person may not establish or operate a personal care facility without a license issued under this chapter.

(b) The department by rule shall establish procedures to issue a six-month provisional license to existing facilities with residents. The department may issue a provisional license only if:

- (1) the facility is in compliance with resident care standards;
- (2) the facility voluntarily discloses that the facility needs additional time to comply with life safety code and physical plant standards;
- (3) the disclosure is made in writing by certified mail to the department;

(4) an investigation of the violation was not initiated and the violation was not independently detected by the department; and

(5) the disclosure is made promptly after knowledge of the information disclosed is obtained by the facility.

(c) If, at the end of the six-month provisional license period, the facility does not meet life safety code and physical plant standards, the department may not issue a license to the facility.

SECTION 2. Subchapter B, Chapter 247, Health and Safety Code, is amended by adding Section 247.029 to read as follows:

Sec. 247.029. MUNICIPAL ENFORCEMENT. The governing body of a municipality by ordinance may:

(1) prohibit a person who does not hold a license issued under this chapter from establishing or operating a personal care facility within the municipality; and

(2) establish a procedure for emergency closure of a facility in circumstances in which:

(A) the facility is established or operating in violation of Section 247.021; and

(B) the continued operation of the facility creates an immediate threat to the health and safety of a resident of the facility.

SECTION 3. Section 247.044, Health and Safety Code, is amended by amending Subsections (c) and (d) and adding Subsection (e) to read as follows:

(c) The department may petition a district court for a temporary restraining

order to inspect a facility allegedly required to be licensed and operating without a license when admission to the facility cannot be obtained. If it is shown that admission to the facility cannot be obtained, the court shall order the facility to allow the department admission to the facility.

(d) The attorney general or local prosecuting attorney may institute and conduct a suit authorized by this section at the request of the department.

(e) [(d)] Venue for a suit brought under this section is in the county in which the personal care facility is located or in Travis County.

SECTION 4. Section 247.045, Health and Safety Code, is amended to read as follows:

Sec. 247.045. CIVIL PENALTIES. (a) Except as provided by Subsection (b), a [A] person who violates this chapter or who fails to comply with a rule adopted under this chapter and whose violation is determined by the department to threaten the health and safety of a resident of a personal care facility is subject to a civil penalty of not less than \$100 nor more than \$10,000 for each act of violation. Each day of a continuing violation constitutes a separate ground of recovery.

(b) A person who does not possess a license for a personal care facility as required by Section 247.021 is subject to a civil penalty of not less than \$1,000 nor more than \$10,000 for each act of violation. Each day of a continuing violation constitutes a separate ground for recovery.

(c) If the attorney general fails to take action within 30 days of referral from the department, the department shall refer the case to the local district attorney, county attorney, or city attorney. The district attorney, county attorney, or city attorney shall file suit in a district court to collect and retain the penalty.

(d) Investigation and attorney's fees may not be assessed or collected by or on behalf of the department or other state agency unless the department or other state agency assesses and collects a penalty described under this chapter.

(e) The department and attorney general, or other legal representative as described in Subsection (c), shall work in close cooperation throughout any legal proceedings requested by the department.

(f) The commissioner of human services must approve any settlement agreement to a suit brought under this chapter.

SECTION 5. (a) The change in law made by Section 4 of this Act applies only to a violation of Chapter 247, Health and Safety Code, committed on or after the effective date of this Act. For purposes of this section, a violation is committed before the effective date of this Act if any element of the violation occurs before that date.

(b) A violation of Chapter 247, Health and Safety Code, committed before the effective date of this Act is governed by the law in effect when the violation was committed, and the former law is continued in effect for this purpose.

SECTION 6. This Act takes effect September 1, 1997.

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.

Representative Hochberg moved to adopt the conference committee report on **HB 1596**.

The motion prevailed. (Horn and Talton recorded voting no)

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 2001 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Oliveira submitted the following conference committee report on **HB 2001**:

Austin, Texas, May 31, 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 2001** 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.

Sibley	Oliveira
Cain	G. Lewis
Duncan	Luna
Moncrief	Seaman
On the part of the Senate	On the part of the House

HB 2001, A bill to be entitled An Act relating to the enterprise zones and certain projects in enterprise zones.

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

SECTION 1. Section 2303.052(d), Government Code, is amended to read as follows:

(d) On or before December 15 [†] of each year the department shall submit to the governor, the legislature, and the Legislative Budget Board a report that:

- (1) evaluates the effectiveness of the enterprise zone program;
- (2) describes the use of state and local incentives under this chapter and their effect on revenue; and
- (3) suggests legislation.

SECTION 2. Section 2303.0525(a), Government Code, is amended to read as follows:

(a) On or before December 15 [†] of each even-numbered year, the department shall prepare a cost-benefit analysis of the enterprise zone program.

SECTION 3. Sections 2303.104(b) and (c), Government Code, are amended to read as follows:

(b) At least three [~~one~~] of the incentives summarized under Subsection (a)(3) must not apply throughout the governmental entity or entities nominating the area as an enterprise zone. At least two of the incentives summarized under Subsection (a)(3) must be financial incentives.

(c) This section does not prohibit a municipality or county from extending additional incentives, including tax incentives, for business enterprises in an enterprise zone by a separate ordinance or order or by a written agreement.

SECTION 4. Section 2303.401, Government Code, is amended to read as follows:

Sec. 2303.401. DEFINITIONS [~~DEFINITION~~]. In this subchapter:

(1) "New [~~new~~] permanent job" means a new employment position created by a qualified business as described by Section 2303.402 that:

(A) [~~(+)~~] has provided at least 1,820 hours of employment a year to a qualified employee; and

(B) [~~(2)~~] is intended to exist during the period that the qualified business is designated as an enterprise project under Section 2303.406.

(2) "Retained job" means a job that existed with a qualified business before designation as an enterprise project that:

(A) has provided employment to a qualified employee of at least 1,820 hours annually; and

(B) is intended to be an employment position retained during the period the business is designated as an enterprise project in accordance with Chapter 151, Tax Code.

SECTION 5. Section 2303.403, Government Code, is amended to read as follows:

Sec. 2303.403. Prohibition on Qualified Business Certification. If the department determines that the governing body of an enterprise zone is not complying with this chapter, the department shall prohibit the certification of a qualified business in the zone until the department determines that the governing body is complying with this chapter. The department may not designate more than 65 businesses as enterprise projects during the [~~any~~] biennium beginning September 1, 1997, or September 1, 1999. The department in its discretion may withhold up to five project slots from designation.

SECTION 6. Sections 2303.406(a) and (b), Government Code, are amended to read as follows:

(a) The department may designate a business as an enterprise project only if the department determines that:

(1) the business is a qualified business under Section 2303.402 that:

(A) is located in or has made a substantial commitment to locate in an enterprise zone described by Section 2303.404(b); and

(B) has made a commitment to create or retain at least:

(i) 10 jobs, if the company is locating in an enterprise zone in which the community has a population equal to or less than 50,000, according to the most recent estimates based on the most recent decennial census provided by the State Data Center; or

(ii) 25 jobs, if the company is locating in an enterprise zone in which the community has a population of more than 50,000, according to the most recent estimates based on the most recent decennial census provided by the State Data Center;

(2) the governing body of the enterprise zone making the application has demonstrated that a high level of cooperation exists among public, private, and neighborhood entities in the zone; and

(3) the designation will contribute significantly to the achievement of the plans of the governing body making the application for development and revitalization of the zone.

(b) The department shall designate qualified businesses as enterprise projects on a competitive basis. The department shall establish a minimum scoring threshold that must be met by the qualified business applying for a project designation and make its designation decisions using a weighted scale in which:

(1) 40 ~~[50]~~ percent of the evaluation depends on the economic distress of:

(A) the enterprise zone in which a proposed enterprise project is located; and

(B) the area within the enterprise zone where the project is located;

(2) 15 ~~[25]~~ percent of the evaluation depends on the local public effort used for the project to achieve development and revitalization of the enterprise zone; ~~[and]~~

(3) 20 ~~[25]~~ percent of the evaluation depends on the ~~[evaluation criteria as determined by the department, which must include:~~

~~[(A) the]~~ level of cooperation and support the project applicant commits to the revitalization goals of the zone;

(4) 10 percent of the evaluation depends on the amount of capital investment; and

(5) 15 percent of the evaluation depends on

~~[(B)]~~ the type and wage level in relation to the prevailing wage for that occupation in the local labor market area of the jobs to be created or retained by the business.

SECTION 7. Section 2303.511(b), Government Code, is amended to read as follows:

(b) A reduction in utility rates under Subsection (a)(9)(B) is subject to the agreement of the affected utility and the approval of the appropriate regulatory authority under Sections 16 and 17, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes). The rates may ~~[not]~~ be reduced up to but not more than five percent below the lowest rate allowable for that customer class ~~[offered to any customer located in the enterprise zone, including economic development rates and standby rates]~~. A qualified enterprise project or the governing body of the enterprise zone may petition the appropriate utility and the appropriate regulatory authority to receive a reduced rate under this section, and the regulatory authority may order that rates be reduced. In making its determination under this section, the regulatory authority shall consider revitalization goals for the enterprise zone. In setting the rates of the utility the appropriate regulatory authority shall allow the utility to recover the amount of the reduction.

SECTION 8. Sections 151.429(a) and (g), Tax Code, are amended to read as follows:

(a) An enterprise project is eligible for a refund in the amount provided by this section of the taxes imposed by this chapter on purchases of:

(1) equipment or machinery sold to, repaired for, or rented by an enterprise project for use in an enterprise zone;

(2) building materials sold to an enterprise project for use in remodeling, rehabilitating, or constructing a structure in an enterprise zone;

(3) labor for remodeling, rehabilitating, or constructing a structure by an enterprise project in an enterprise zone; and

(4) electricity and natural gas purchased and consumed in the normal course of business in the enterprise zone, including electricity and natural gas used in leased or rented facilities where the utility account is in the name of the landlord who meters and directly passes through the itemized charges, including sales tax, for the electricity and natural gas used by the project to the owner of the enterprise project.

(g) The refund provided by this section is conditioned on the enterprise project maintaining at least the same level of employment of qualified employees as existed at the time it qualified for a refund for a period of three years from that date. The Texas Department of Commerce shall annually certify to the comptroller [~~and the Legislative Budget Board~~] whether that level of employment of qualified employees has been maintained. On the Texas Department of Commerce certifying that such a level has not been maintained, the comptroller shall assess that portion of the refund attributable to any such decrease in employment, including penalty and interest from the date of the refund.

SECTION 9. Section 171.1015(g), Tax Code, is amended to read as follows:

(g) Only enterprise projects [~~qualified businesses~~] that have been certified as eligible for a tax deduction under this section by the Texas Department of Commerce to the comptroller may apply for [~~and the Legislative Budget Board are entitled to~~] the tax deduction.

SECTION 10. Section 351.001(2), Tax Code, is amended to read as follows:

(2) "Convention center facilities" or "convention center complex" means civic centers, civic center buildings, auditoriums, exhibition halls, and coliseums that are owned by the municipality or other governmental entity or that are managed in whole or part by the municipality, hotels owned by the municipality or a nonprofit municipally sponsored local government corporation created pursuant to the Texas Transportation Corporation Act (Article 1528I, Vernon's Texas Civil Statutes) within 1,000 feet of a convention center owned by a municipality or county with a population of 440,000 [~~1,500,000~~] or more, or a historic hotel owned by a municipality or a nonprofit municipally sponsored local government corporation created pursuant to the Texas Transportation Corporation Act (Article 1528I, Vernon's Texas Civil Statutes) within one mile of a convention center owned by a municipality or county with a population of 440,000 [~~1,500,000~~] or more. The term includes parking areas or facilities that are for the parking or storage of conveyances and that are located at or in the vicinity of other convention center facilities.

SECTION 11. Section 351.102(a), Tax Code, is amended to read as follows:

(a) Subject to the limitations provided by this subchapter, a municipality may pledge the revenue derived from the tax imposed under this chapter for the payment of bonds that are issued under Section 3, Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j-4.1, Vernon's Texas Civil Statutes), for one or more of the purposes provided by Section 351.101 or, in

the case of a municipality of 440,000 [~~1,500,000~~] or more, for the payment of principal of or interest on bonds or other obligations of a municipality or of a municipally sponsored local government corporation created pursuant to the Texas Transportation Corporation Act (Article 1528I, Vernon's Texas Civil Statutes) that were issued to pay the cost of the acquisition and construction of a convention center hotel or the cost of acquisition, remodeling, or rehabilitation of a historic hotel structure; provided, however, such pledge may only be that portion of the tax collected at such hotel.

SECTION 12. Section 2(a), Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j-4.1, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) Any such city is hereby authorized to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate or maintain (any or all) improvements such as civic centers, civic center buildings, auditoriums, opera houses, music halls, exhibition halls, coliseums, museums, libraries, or other city buildings (either or all), golf courses, tennis courts, and other similar recreational facilities, hotels owned by a municipality or a nonprofit municipally sponsored local government corporation created pursuant to the Texas Transportation Corporation Act (Article 1528I, Vernon's Texas Civil Statutes) within 1,000 feet of a convention center owned by a municipality or county with a population of 440,000 [~~1,500,000~~] or more, or a historic hotel owned by a municipality or a nonprofit municipally sponsored local government corporation created pursuant to the Texas Transportation Corporation Act (Article 1528I, Vernon's Texas Civil Statutes) within one mile of a convention center owned by a municipality or county with a population of 440,000 [~~1,500,000~~] or more, and to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate or maintain (any or all) structures, parking areas, or facilities, located at or in the immediate vicinity of such public improvements, to be used in connection with such improvements for off-street parking or storage of motor vehicles or other conveyances; and provided that any such lease shall be on such terms and conditions as said city shall deem appropriate.

SECTION 13. Section 2303.003(8), Government Code, is amended to read as follows:

(8) "Qualified hotel project" means a hotel proposed to be constructed by a municipality or a nonprofit municipally sponsored local government corporation created under the Texas Transportation Corporation Act (Article 1528I, Vernon's Texas Civil Statutes) that is within 1,000 feet of a convention center owned by a municipality having a population of 440,000 [~~1,500,000~~] or more or owned by a county containing a municipality having a population of 440,000 or more, including shops, parking facilities, and any other facilities ancillary to the hotel.

SECTION 14. Section 151.429, Tax Code, is amended by adding Subsections (i) and (j) to read as follows:

(i) Only one qualified hotel project as defined under Chapter 2303.003(8), Government Code, may be constructed in each eligible municipality with a population of less than 1,500,000, however, the qualified hotel project under this subsection shall not be entitled to the sales tax refund or rebate contained in Subsection (h).

(j) Subsections (h) and (i) expire December 31, 2001. A project that is eligible under Subsection (h) before December 31, 2001, shall continue to receive any rebates, refunds, or payments through the first 10 years after such project is open for initial occupancy as stated by the law in effect at that time.

SECTION 15. Section 2303.5055(b), Government Code, is amended to read as follows:

(b) A municipality with a population of 440,000 [~~1,500,000~~] or more may agree to guarantee from hotel occupancy taxes the bonds or other obligations of a municipality or of a municipally sponsored local government corporation created under the Texas Transportation Corporation Act (Article 1528I, Vernon's Texas Civil Statutes) that were issued or incurred to pay the cost of construction, remodeling, or rehabilitation of a qualified hotel project.

SECTION 16. Section 2303.0525(b), Section 2303.0525(c), Section 2303.110(d), Government Code, and Section 171.501, Tax Code, are repealed.

SECTION 17. (a) An enterprise project designated under Chapter 2303, Government Code, after August 31, 1997, may not receive a tax refund under Section 151.429, Tax Code, as amended by this Act, or a tax reduction under Section 171.1015, Tax Code, before September 1, 1999.

(b) An enterprise project designated under Chapter 2303, Government Code, after August 31, 1999, may not receive a tax refund under Section 151.429, Tax Code, as amended by this Act, or a tax reduction under Section 171.1015, Tax Code, before September 1, 2001.

(c) Not more than \$8 million in state sales and use taxes may be refunded to enterprise projects during any biennium.

SECTION 18. This Act takes effect September 1, 1997.

SECTION 19. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Representative Oliveira moved to adopt the conference committee report on **HB 2001**.

The motion prevailed. (Hartnett and Keel recorded voting no)

HR 1348 - ADOPTED
(by Oliveira)

The speaker laid before the house the following privileged resolution:

HR 1348

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 932** to consider and take action on the following matter:

House Rule 13, Section 9(a)(4), is suspended to permit the committee to add new SECTIONS 35, 36, and 38 through 40 of the bill to read as follows:

SECTION 35. Section 481.151, Government Code, is amended to read as follows:

Sec. 481.151. DEFINITIONS. In this subchapter:

(1) "Business development" includes relocation, expansion, turnover, diversification, or technological change.

(2) "Demand occupation" means an occupation in which, as a result of business development, there are or will be positive growth-to-replacement ratios within the next 12 to 24 months, according to the best available sources of state and local labor market information.

(3) "Emerging occupation" means an occupation that arises from forces related to technological changes in the workplace and the work of which cannot be performed by workers from other occupations without at least two months of customized education or training.

(4) "Employee" means an individual who performs services for another under a contract of hire, whether express or implied, or oral or written.

(5) [(4)] "Employer" means a person that employs one or more employees.

(6) [(5)] "Executive director" means the executive director of the department.

(7) [(6)] "Existing employer" means an employer that:

(A) has been liable to pay contributions under Subtitle A, Title 4, Labor Code [(the] Texas Unemployment Compensation Act) [(~~Article 5221b-1 et seq., Vernon's Texas Civil Statutes~~)] for more than one year;

(B) has employees; and

(C) is in compliance with the reporting and payment requirements of that Act, as determined by the Texas Workforce [Employment] Commission.

(8) [(7)] "Family wage job" means a job that offers:

(A) wages equal to or greater than the state average weekly wage;

(B) benefits, such as vacation leave, sick leave, and insurance coverage;

(C) reasonable opportunities for continued skill development and career path advancement; and

(D) a substantial likelihood of long-term job security.

(9) [(8)] "In-kind contribution" means a noncash contribution of goods and services provided by an employer as all or part of the employer's matching share of a grant or project.

(10) [(9)] "Job" means employment on a basis customarily considered full-time for the applicable occupation and industry.

(11) "Manufacturing occupation" means an occupation that is involved in the mechanical or chemical transformation of materials or substances into new products.

(12) "Micro-business" means an eligible business with not more than 20 employees.

(13) [(10)] "Minority employer" means a business entity at least 51 percent of which is owned by minority group members or, in the case of a corporation, at least 51 percent of the shares of which are owned by minority group members and that:

(A) is managed and, in daily operations, is controlled by minority group members; and

(B) is a domestic business entity with a home or branch office located in this state and is not a branch or subsidiary of a foreign corporation or other foreign business entity.

(14) [(11)] "Minority group members" include:

(A) African-Americans;

(B) American Indians;

(C) Asian-Americans; ~~and~~

(D) Mexican-Americans and other Americans of Hispanic origin; and

(E) women.

(15) [(12)] "Program" means the smart jobs fund program created under this subchapter.

(16) [(13)] "Project" means a specific employment training project developed and implemented under this subchapter.

(17) [(14)] "Provider" means a person that provides employment-related training. The term includes employers, employer associations, labor organizations, community-based organizations, training consultants, public and private schools, technical institutes, junior or community colleges, senior colleges, universities, and proprietary schools, as defined by Section 132.001, Education Code.

(18) "Small business" has the meaning assigned that term by Section 481.101.

(19) [(15)] "State average weekly wage" means the annual average of the average weekly wage of manufacturing production workers in this state as of September 1 of each year, as determined by the Texas Workforce [Employment] Commission [under Section 3(b), Texas Unemployment Compensation Act (Article 5221b-1, Vernon's Texas Civil Statutes)], adjusted for regional variances.

(20) [(16)] "Targeted industry" means an industry that promotes high-skill, high-wage jobs using Texas-available material and human resources, as determined by the department.

(21) [(17)] "Trainee" means a participant in a project funded under this subchapter.

(22) [(18)] "Wages" means all forms of compensation or remuneration, excluding benefits, payable for a specific period to an employee for personal services rendered by that employee.

SECTION 36. Section 481.154, Government Code, is amended to read as follows:

Sec. 481.154. FUNDING. (a) The smart jobs fund is established as a special trust fund in the custody of the state treasurer separate and apart from all public money or funds of this state. The fund is composed of:

(1) money transferred into the fund under Section 204.123, Labor Code [9e, Texas Unemployment Compensation Act (Article 5221b-1 et seq., Vernon's Texas Civil Statutes)];

(2) gifts, grants, and other donations received by the department for the fund; and

(3) any amounts appropriated by the legislature for the program.

(b) The program is funded through the smart jobs fund.

(c) Money in the smart jobs fund may be used for program administration, marketing expenses, and evaluation of the program. These costs of the department in any fiscal year may not exceed five percent of the total amount appropriated for the program for [~~funds deposited in the smart jobs fund in~~] that year.

(d) If, during any three consecutive months, the balance in the smart jobs fund exceeds 0.15 percent of the total taxable wages for the four calendar quarters ending the preceding June 30, as computed under Section 204.062(c), Labor Code [~~7(c)(8), Texas Unemployment Compensation Act (Article 5221b-5, Vernon's Texas Civil Statutes)~~], the executive director shall immediately transfer the excess to the Unemployment Compensation Fund created under Section 203.021, Labor Code [~~9(a), Texas Unemployment Compensation Act (Article 5221b-7, Vernon's Texas Civil Statutes)~~].

SECTION 38. Section 481.156(a), Government Code, is amended to read as follows:

(a) The following may apply for a grant under this subchapter:

(1) one or more employers to secure training for demand occupations, emerging occupations, or manufacturing occupations [~~in a particular industry~~];

(2) one or more employers acting in partnership with an employer organization, labor organization, or community-based organization to secure training for demand occupations, emerging occupations, or manufacturing occupations [~~in a particular industry~~]; or

(3) one or more employers acting in partnership with a consortium composed of [~~one or~~] more than one provider [~~providers~~] to secure training for demand occupations, emerging occupations, or manufacturing occupations [~~in a particular industry~~].

SECTION 39. Section 481.159(c), Government Code, is amended to read as follows:

(c) Each contract must provide a schedule for payment of smart jobs fund money. Twenty-five percent of allowable expenditures [~~the grant award~~] shall be withheld by the department for 90 days after the date of completion of the contract [~~project~~]. If at least 85 percent [~~all~~] of the trainees in the project have been retained in employment for that 90-day period and have successfully achieved the skills and competencies, wage requirements, and other contractual obligations, the amount of allowable expenditures [~~the grant award~~] withheld shall be remitted to the employer. [~~For each trainee who is not retained in employment for that 90-day period, the amount withheld shall be reduced by the amount of the training costs for that trainee that is derived from grant money, and any balance shall be remitted to the employer.~~] If there is a negative balance, the employer is liable for the amount of the negative balance and shall remit that amount to the department not later than the 30th day after the date on which the employer is notified of the negative balance by the department.

SECTION 40. Section 481.160(b), Government Code, is amended to read as follows:

(b) The annual report must include for that fiscal year:

- (1) the number of employers receiving grants under the program;
- (2) the total amount of grants awarded;

(3) the value, expressed in dollars and as a percentage of total training expenditures, of matching contributions made by employers;

(4) the number of small businesses, as defined by Section 481.101(3), that receive grants under the program and the total amount of the grants awarded to those businesses;

(5) the number of businesses located in enterprise zones, as that term is defined by Chapter 2303, that receive grants under the program and the total amount of the grants awarded to those businesses;

(6) the geographical distribution of employers receiving grants under the program;

(7) the total number of jobs created, enhanced, or retained under the program, reported by region of the state and by occupation;

(8) the wage levels of trainees entering or returning to the work force, broken down by current employees undergoing retraining and new hires, at three months and[:] one year[~~, and three years~~] after the conclusion of their training;

(9) the number and percentage of participating employers that provide workers' compensation insurance coverage and the number and percentage of employees covered;

(10) the number and percentage of participating employers that offer health care insurance coverage and the number and percentage of employees covered;

(11) the number and percentage of women employers and minority employers receiving grants under the program and the total amount of the grants awarded, broken out by group;

(12) the number and percentage of women, minority group members, and disabled individuals participating as trainees in training projects, broken out by group; and

(13) the number and percentage of women private providers and private providers who are minority group members utilized by employers in training projects, broken out by group.

Explanation: These additions are necessary to modify the provisions regarding administration of and participation in the Smart Jobs Fund Program.

HR 1348 was adopted without objection.

SB 932 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Oliveira submitted the conference committee report on **SB 932**.

Representative Oliveira moved to adopt the conference committee report on **SB 932**.

The motion prevailed. (Hartnett recorded voting no)

HB 2437 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Bonnen submitted the following conference committee report on **HB 2437**:

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 2437** 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.

Sibley	Bonnen
Madla	Eiland
Shapiro	G. Lewis
	Wise

On the part of the Senate On the part of the House

HB 2437, A bill to be entitled An Act relating to the Texas Property and Casualty Insurance Guaranty Association.

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

SECTION 1. Section 5(8), Article 21.28-C, Insurance Code, is amended to read as follows:

(8) "Covered claim" means an unpaid claim of an insured or third-party liability claimant that arises out of and is within the coverage and not in excess of the applicable limits of an insurance policy to which this Act applies, issued or assumed (whereby an assumption certificate is issued to the insured) by an insurer licensed to do business in this state, if that insurer becomes an impaired insurer and the third-party claimant or liability claimant or insured is a resident of this state at the time of the insured event, or the claim is a first-party claim for damage to property that is permanently located in this state. "Covered claim" shall also include ~~[75 percent of]~~ unearned premiums, but in no event shall a covered claim for unearned premiums exceed \$25,000 ~~[\$1,000]~~. Individual covered claims (including any and all derivative claims by more than one person which arise from the same occurrence, which shall be considered collectively as a single claim under this Act) shall be limited to \$300,000 ~~[\$100,000]~~, except that the association shall pay the full amount of any covered claim arising out of a workers' compensation claim made under a workers' compensation policy. "Covered claim" shall not include any amount sought as a return of premium under a retrospective rating plan or any amount due any reinsurer, insurer, insurance pool, or underwriting association, as subrogation recoveries, reinsurance recoveries, contribution, indemnification, or otherwise, and the insured of an impaired insurer is not liable, and the insurer is not entitled to sue or continue a suit against that insured, for any subrogation recovery, reinsurance recovery, contribution, or indemnity asserted by a reinsurer, insurer, insurance pool, or underwriting association to the extent of the applicable liability limits of the policy written and issued to the insured by the insolvent insurer. "Covered claim" shall not include supplementary payment obligations, including adjustment fees and expenses, attorney's fees and expenses, court costs, interest and penalties, and interest and bond premiums incurred prior to the determination that an insurer is an impaired insurer under this Act. "Covered claim" shall not include any prejudgment or postjudgment interest that accrues subsequent to the determination that an insurer is an

impaired insurer under this Act. "Covered claim" shall not include any claim for recovery of punitive, exemplary, extracontractual, or bad-faith damages, whether sought as a recovery against the insured, insurer, guaranty association, receiver, special deputy receiver, or commissioner, awarded in a court judgment against an insured or insurer. "Covered claim" shall not include, and the association shall not have any liability to an insured or third-party liability claimant, for its failure to settle a liability claim within the limits of a covered claim under this Act. With respect to a covered claim for unearned premiums, both persons who were residents of this state at the time the policy was issued and persons who are residents of this state at the time the company is found to be an impaired insurer shall be considered to have covered claims under this Act. If the impaired insurer has insufficient assets to pay the expenses of administering the receivership or conservatorship estate, that portion of the expenses of administration incurred in the processing and payment of claims against the estate shall also be a covered claim under this Act.

SECTION 2. This Act shall take effect on September 1, 1997, and shall apply to claims against insurers which are impaired under Article 21.28-C, Insurance Code, on or after such date.

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 Bonnen moved to adopt the conference committee report on **HB 2437**.

The motion prevailed.

HR 1331 - ADOPTED
(by Kubiak)

The speaker laid before the house the following privileged resolution:

HR 1331

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 **HB 1391** 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 1-6, 8-13, 14(b) and (c), 15, and 16(a)-(c) of the bill to read as follows:

SECTION 1. Section 2, Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes), is amended by amending Subdivisions (6) and (7) and adding Subdivisions (14) and (15) to read as follows:

(6) "Person" means an individual, firm, partnership, corporation, association, or other organization or combination of entities or organizations.

(7) "Air conditioning and refrigeration maintenance work" means repair work and all other work required for the continued normal performance of an environmental air conditioning system, commercial refrigeration system

or equipment, or process cooling or heating system. The term does not include the installation of a total replacement of the system or the installation or repair of boilers or pressure vessels [~~that must be installed by licensed persons pursuant to rules and regulations adopted by the commissioner~~] under Chapter 755, Health and Safety Code.

(14) "Air conditioning and refrigeration contracting company" means a person or other entity that performs air conditioning and refrigeration contracting.

(15) "Direct personal supervision" means directing and verifying work performed by another person that requires a license under this Act and includes hiring, training, and consulting with an employee, personally observing and checking the work of an employee, and having responsibility for handling customer complaints.

SECTION 2. Section 3(e), Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes), is amended to read as follows:

(e) The commissioner shall prescribe the method and content of examinations administered under this Act and shall set compliance requirements for the examinations. The examinations [~~shall be offered only in Travis County and~~] shall be offered on a quarterly basis at locations designated by the commissioner.

SECTION 3. Section 3A, Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes), is amended by adding Subsection (i) to read as follows:

(i) Section 8, Article 6252-33, Revised Statutes, does not apply to the advisory board.

SECTION 4. Section 3B, Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3B. LICENSE REQUIRED. (a) Unless the person is exempted under Section 6 of this Act, a person may not perform air conditioning and refrigeration contracting without a license under this Act. An individual is not required to hold a license under this Act if the individual is a bona fide employee of an air conditioning and refrigeration contracting company that has a license holder whose license is assigned to the company and who has responsibility for direct personal supervision of the individual.

(b) An air conditioning and refrigeration contracting company that is not exempt under this Act must employ a person who is a license holder under this Act and whose license is assigned to the company.

SECTION 5. The Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes) is amended by adding Section 3C to read as follows:

Sec. 3C. ENFORCEMENT OF CONTRACTS. (a) A person who performs air conditioning and refrigeration contracting without holding the appropriate license under this Act may not collect a fee or otherwise enforce a contract for the services performed. To enforce a contract for the performance of air conditioning and refrigeration contracting, the person who performs the services must present proof that the person holds a license under this Act at the time the contract is signed and the work performed.

(b) The commissioner shall adopt rules relating to the manner in which proof may be presented under this section.

SECTION 6. Sections 4(f) and (g), Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes), are amended to read as follows:

(f) The application must be made on a form prescribed by the commissioner and must specify the class of license and each endorsement the applicant seeks. The application must be verified and must be accompanied by:

- (1) ~~[evidence of the insurance coverage required under this Act;~~
- ~~[(2)]~~ a statement of the applicant's practical experience; and
- (2) ~~[(3)]~~ the examination fee.

(g) The commissioner shall issue an air conditioning and refrigeration contractor license to an applicant who possesses the required qualifications, passes the appropriate examinations, furnishes evidence of the insurance coverage required under this Act, and pays the ~~[examination fee and the]~~ original license fee required by this Act. An applicant who fails an examination is eligible for reexamination.

SECTION 8. Section 6(a), Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) This Act does not apply to a person who:

(1) performs air conditioning and refrigeration contracting in a building owned solely by him as his home;

(2) performs air conditioning or refrigeration maintenance work if (i) the person is a maintenance man or maintenance engineer who is a regular bona fide employee of the property owner, the property lessee, or the management company managing the property where the maintenance work is being performed, (ii) the work is performed in connection with the business in which the person is employed, and (iii) the person and the person's employer referred to in (i) above do not engage in the occupation of air conditioning and refrigeration contracting for the general public;

(3) performs air conditioning and refrigeration contracting and is regularly employed by a regulated electric or gas utility;

(4) is licensed as a professional engineer under The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), performs work in connection with the business in which the person is employed, and does not engage in the practice of air conditioning and refrigeration contracting for the general public;

(5) performs process cooling or heating work for an industrial operation such as a chemical plant, petrochemical plant, refinery, natural gas plant, or natural gas treating plant when employed by that operation;

(6) performs air conditioning and refrigeration contracting on:

(A) a portable or self-contained ductless air conditioning or refrigeration product that has a cooling capacity of three tons or less;

(B) a portable or self-contained heating product that does not require the forced movement of air outside the heating unit; or

(C) environmental air conditioning equipment that is intended for temporary use and is not fixed in place; [or]

(7) performs air conditioning services only on a motor vehicle air conditioning unit or who employs a person who performs air conditioning services only on a motor vehicle air conditioning unit; or

(8) performs air conditioning and refrigeration maintenance work on residential evaporative coolers, including coolers that are not larger than 6,500 cubic feet per minute.

SECTION 9. Section 7, Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7. REPORTING REQUIREMENT. (a) Each air conditioning and refrigeration contractor ~~[person]~~ licensed under this Act shall notify the municipal authority who has control of the enforcement of regulations relative to air conditioning and refrigeration contracting in the municipality in which the person is engaged in air conditioning and refrigeration contracting that the person has obtained a state license.

(b) The notification must be in the form required by the municipality.

(c) The amount of a fee imposed by a municipality on a contractor to provide notice under this section may be set by the municipality only in the amount reasonable and necessary to implement this section.

SECTION 10. Section 8, Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 8. PENALTY. Except as provided in Section 9, a person commits an offense if the person knowingly or intentionally engages in air conditioning and refrigeration contracting without a license issued under this Act. An offense under this section is a Class A ~~[B]~~ misdemeanor.

SECTION 11. Section 9, Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 9. Municipal Regulation. (a) A license issued by a municipality of this state that complies with the requirements of this section is valid under the terms of the license within that municipality. However, a license issued under this Act is valid throughout the state, and the holder and people under supervision are not required to hold a municipal license to practice air conditioning and refrigeration contracting in any municipality within this state.

(b) An applicant for a municipal license must:

(1) pass an examination that covers the same subjects as the examination required by the commissioner for an air conditioning and refrigeration contractor license of the class of work that the municipal applicant proposes to perform; and

(2) meet experience requirements that are at least as strict as those required under Section 4(e) of this Act for an air conditioning and refrigeration contractor license.

(c) A municipality may by ordinance adopt and enforce standards for air conditioning and refrigeration contractors that are consistent with the standards established under this Act. The municipality shall report violations of the ordinance to the commissioner not later than the 10th day after the date on which the municipality takes action to enforce the ordinance. Conviction of

an offense under the municipal ordinance is a ground for the denial, suspension, or revocation of a license issued under this Act.

SECTION 12. Section 23(c), The Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes), is amended by adding Subdivision (4) to read as follows:

(4) In addition to the license requirements imposed under Subdivisions (1), (2), and (3) of this subsection, a business entity that inspects an environmental air conditioning system, commercial refrigeration system, or process cooling or heating system as part of a real estate inspection conducted under this Act must employ a person who holds the appropriate air conditioning and refrigeration contractor licenses and endorsements under the Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes). An employee who does not hold a license or endorsement under the Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes) may perform the inspection under the direction of the license holder. For purposes of this Act, an inspection of environmental air conditioning, commercial refrigeration, and process cooling and heating equipment means an inspection that includes the use of electronic instruments, gauges, thermometers, mechanical instruments, or other meters that require direct in-line connection to the refrigeration system.

SECTION 13. Section 25, Residential Service Company Act (Article 6573b, Revised Statutes), is amended to read as follows:

Sec. 25. Exemptions. The provisions of this Act shall not apply to any of the following persons and transactions, and each and all of the following persons and transactions are hereby exempted from the provisions of this Act, to wit:

(a) performance guarantees given by either the builder of a home or the manufacturer or seller of an appliance or other system or component;

(b) any residential service contract executed on or before the effective date of this Act;

(c) any service contract, guarantee, or warranty intending to guarantee or warrant the repairs or service of a home appliance, system, or component, provided such service contract, guarantee, or warranty is issued by a person who has sold, serviced, repaired, or provided replacement of such appliance, system, or component at the time of, or prior to the issuance of such contract, guarantee, or warranty; and provided further that the person issuing the service contract, guarantee, or warranty does not engage in the business of a service company;

(d) any person engaging in the business of structural pest control in compliance with the Texas Structural Pest Control Act, as amended (Article 135b-6, Vernon's Texas Civil Statutes, 1925);

(e) any person who performs air conditioning and refrigeration contracting in compliance with the Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes); and

(f) any service or maintenance contract or agreement, or warranty, which provides for, warrants, or guarantees, the maintenance, repair, service, replacement, or operation or performance, of any product or part thereof, including but not limited to a structural component, the appliances, or the electrical, plumbing, heating, cooling or air-conditioning systems in or of a

building or residence, provided such service or maintenance contract or agreement, or warranty is sold, offered for sale, or issued by the manufacturer or merchant who manufactured or sold such product or part thereof.

SECTION 14. (b) Section 8, Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes), as amended by this Act, applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

(c) An offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 15. (a) Except as provided by Subsection (b) of this section, Section 9, Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes), as amended by this Act, applies to a municipal license that is issued or renewed on or after the effective date of this Act. A municipality subject to that section shall adopt examination requirements in compliance with that section not later than January 1, 1998.

(b) To continue to engage in the practice of air conditioning and refrigeration contracting after September 1, 1997, a person who holds a municipal license on the effective date of this Act must satisfy the examination requirements of Section 9(b), Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes), as amended by this Act, not later than June 1, 1998.

SECTION 16. (a) Not later than December 31, 1997, the commissioner of licensing and regulation shall adopt rules as required by Section 3C, Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes), as added by this Act.

(b) Section 23(c), The Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes), as amended by this Act, applies only to a real estate inspection that is conducted on or after the effective date of this Act. A real estate inspection conducted before that date is governed by the law in effect on the date that the inspection occurs, and the former law is continued in effect for that purpose.

(c) Section 25, Residential Service Company Act (Article 6573b, Revised Statutes), as amended by this Act, applies only to a residential service contract that is entered into on or after the effective date of this Act. A residential service contract that is entered into before that date is governed by the law in effect on the date that the contract is entered into, and the former law is continued in effect for that purpose.

Explanation: This change is necessary to allow for the effective regulation and licensure of air conditioning and refrigeration contractors and the work performed by the contractors, their employees, and others.

HR 1331 was adopted without objection.

HR 1340 - ADOPTED
(by Junell)

The speaker laid before the house the following privileged resolution:

HR 1340

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 (b) 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 1898** to consider and take action on the following specific matters:

(1) House Rule 13, Section 9(b)(5), is suspended to permit the committee to add the following item of appropriation that is not included in either the house or senate version of the bill:

SECTION 17. TEXAS A&M UNIVERSITY SYSTEM ADMINISTRATIVE AND GENERAL OFFICES. In addition to other amounts appropriated for the fiscal biennium beginning September 1, 1997, the sum of \$2,500,000 is appropriated from the general revenue fund to the Board of Regents of The Texas A&M University System for that biennium for the purpose of funding scholarships for needy students. The board of regents shall allocate the appropriation made by this section to degree granting components of The Texas A&M University System on the basis of need, considering all other funding sources and other information as determined by the board.

Explanation: This addition is necessary to fund scholarships for needy students at The Texas A&M University System.

(2) House Rule 13, Section 9(b)(5), is suspended to permit the committee to add the following item of appropriation that is not included in either the house or senate version of the bill:

SECTION 18. GOVERNOR. In addition to amounts previously appropriated for the current biennium, the sum of \$2,000,000 out of the general revenue fund is appropriated to the Office of the Governor for the two-year period beginning on the effective date of this Act for the purpose of providing disaster funding to units of local government and other eligible entities.

Explanation: This addition is necessary to provide additional funding for disaster preparedness and relief.

(3) House Rule 13, Section 9(b)(5), is suspended to permit the committee to add the following item of appropriation that is not included in either the house or senate version of the bill:

SECTION 19. AMENDMENT. Article II, House Bill No. 1, Acts of the 75th Legislature, Regular Session, 1997, is amended by adding the following rider provisions below the appropriations to the Department of Health: ...

CONTINGENCY FOR HOUSE BILL 1875. Contingent on the enactment of House Bill 1875 or similar legislation by the 75th Legislature, Regular Session, 1997, relating to the imposition and use of certain fees imposed on certain milk and milk products, the Texas Department of Health is appropriated, out of additional revenues collected under House Bill 1875, the amounts of \$420,000 for the fiscal year beginning September 1, 1997, and \$420,000 for the fiscal year beginning September 1, 1998, for the purpose of dairy regulation.

Explanation: This addition is necessary to provide additional funding for dairy regulation.

(4) House Rule 13, Section 9(b)(5), is suspended to permit the committee to add the following item of appropriation that is not included in either the house or senate version of the bill:

SECTION 20. AMENDMENT. Appropriation item A.2.8., page III-35, Article III, **HB 1**, Acts of the 75th Legislature, Regular Session, 1997, is amended to read as follows:

A.2.8. Strategy: LAMAR UNIV-PORT ARTHUR \$326,429 \$332,957 [A.2.8. Strategy: LAMAR UNIV-PORT ARTHUR \$217,970 \$222,329]

Explanation: This addition is necessary to provide funding for employees' group insurance contributions at a certain institution of higher education.

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

SECTION 21. AMENDMENT. Rider No. 2, page IV-12, Article IV, **HB 1**, Acts of the 75th Legislature, Regular Session, 1997, is amended to read as follows:

2. CONTINGENCY APPROPRIATION FOR SENATE BILL 1417. Contingent upon enactment of **SB 1417**, or similar legislation, by the Seventy-fifth Legislature, Regular Session, the Office of Court Administration is hereby appropriated an amount not to exceed \$2,193,954 in fiscal year 1998 and \$2,774,955 in fiscal year 1999 out of receipts collected pursuant to **SB 1417** [~~for the purpose of implementing that Act~~]. In no event shall the appropriation exceed the revenues generated by **SB 1417**, or similar legislation. The Office of Court Administration is hereby authorized to transfer the appropriation made pursuant to this provision to the appropriate strategy items listed above. Funds appropriated by this provision may be expended for capital budget purposes notwithstanding limitations on capital budget expenditures elsewhere in this Act. Also contingent on the enactment of **SB 1417**, or similar legislation, the "Number of Full-time Equivalent Positions (FTE)" figure indicated above is hereby increased by 29 for fiscal year 1998 and by 29 in fiscal year 1999.

Explanation: This addition is necessary to correct an inconsistency in the language providing the purpose of an appropriation to the Office of Court Administration.

(6) House Rule 13, Section 9(b)(5), is suspended to permit the committee to add the following item of appropriation that is not included in either the house or senate version of the bill:

SECTION 22. AMENDMENT. Rider No. 2, page IV-19, Article IV, **HB 1**, Acts of the 75th Legislature, Regular Session, 1997, is amended to read as follows:

2. APPROPRIATION SOURCE, PUBLIC INTEGRITY UNIT. Out of the funds appropriated above in Item 10., \$1,571,172 [~~\$1,831,172~~] in fiscal year 1998 and \$1,600,745 [~~\$1,860,745~~] in fiscal year 1999 is appropriated specifically to facilitate motor fuel tax fraud and insurance fraud investigations by the Public Integrity Unit in the District Attorney's Office of the Fifty-third Judicial District. It is the intent of the Legislature that the funds specified in the Method of Financing as being appropriated out of the State Highway Fund No. 006 and the General Revenue Fund - Dedicated, Insurance Operating Account be allocated to the appropriation made above in Item 10. In no event shall the amount of general revenue funds allocated and/or granted to the Public Integrity Unit, other than the General Revenue Fund - Dedicated Insurance Operating Account Grants identified in this provision, exceed \$260,000 in any

fiscal year of the biennium. In no event shall any funds appropriated above out of the Judicial Fund No. 573 be allocated to the Public Integrity Unit.

Explanation: This addition is necessary to reduce certain appropriations to the public integrity unit in the office of the district attorney of the 53rd Judicial District.

(7) House Rule 13, Section 9(b)(5), is suspended to permit the committee to add the following item of appropriation that is not included in either the house or senate version of the bill:

SECTION 23. COMPTROLLER: DISTRICT ATTORNEY SALARIES. Notwithstanding any limitations to the contrary in **HB 1**, Acts of the 75th Legislature, Regular Session, 1997, and if the comptroller makes the finding of fact described by Section 8, Article IV, of that Act, and the salary rates provided by that section take effect, the state salary payable to a felony prosecutor subject to the professional prosecutors law (Chapter 46, Government Code) shall be \$101,700 for the fiscal year beginning September 1, 1998.

Explanation: This addition is necessary to provide district attorneys under the professional prosecutors law with an increase in salary in the second year of the upcoming fiscal biennium.

(8) House Rule 13, Section 9(b)(5), is suspended to permit the committee to add the following item of appropriation that is not included in either the house or senate version of the bill:

SECTION 24. COMPTROLLER: DEPUTY COURT CLERK SALARIES. Notwithstanding any language to the contrary in **HB 1**, Acts of the 75th Legislature, Regular Session, 1997, the salary rate payable out of funds appropriated by that Act to an employee in the classified positions "C066 Chief Deputy Clerk, Court of Criminal Appeals" or "C068 Chief Deputy Clerk, Supreme Court" shall be governed by the salary rates established for salary group B14 in Article IX of that Act.

Explanation: This addition is necessary to provide appropriate salaries for chief deputy clerks of the state's two highest courts.

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

SECTION 27. PERFORMANCE MEASURES. The Legislative Budget Board shall develop performance measures for the additional appropriations provided by this Act.

SECTION 28. RECAPITULATION AMOUNTS AND TOTALS. All recapitulation amounts and totals in **HB 1**, Acts of the 75th Legislature, Regular Session, 1997, shall be adjusted to incorporate the amendments made to that Act by this Act.

Explanation: This addition is necessary to permit the appropriations made by this Act to be treated as part of the overall state budget.

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

SECTION 29. REPEALER. Riders No. 29 and 30, page VI-27, Article VI, **HB 1**, Acts of the 75th Legislature, Regular Session, 1997, are repealed.

Explanation: This addition is necessary to repeal contingent riders in the

General Appropriations Act that are obsolete because the legislation to which they refer is no longer viable.

HR 1340 was adopted without objection.

SB 875 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Danburg submitted the conference committee report on **SB 875**.

Representative Danburg moved to adopt the conference committee report on **SB 875**.

The motion prevailed.

(Chisum in the chair)

SB 1100 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative D. Jones submitted the conference committee report on **SB 1100**.

Representative D. Jones moved to adopt the conference committee report on **SB 1100**.

The motion prevailed. (Keel recorded voting no)

STATEMENT BY REPRESENTATIVE KEEL

The amendment to **SB 1100** requiring standardized inspection report forms is bad public policy, jeopardizing potentially more detailed forms being used by inspectors for the benefit of consumers.

Keel

SB 1425 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Horn submitted the conference committee report on **SB 1425**.

Representative Horn moved to adopt the conference committee report on **SB 1425**.

The motion prevailed.

(Speaker 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, House List No. 79).

SB 384 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Smithee submitted the conference committee report on **SB 384**.

Representative Smithee moved to adopt the conference committee report on **SB 384**.

The motion prevailed.

SB 1395 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Stiles submitted the conference committee report on **SB 1395**.

Representative Stiles moved to adopt the conference committee report on **SB 1395**.

A record vote was requested.

The motion prevailed by (Record 635): 139 Yeas, 3 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goolsby; Gray; Greenberg; 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; 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; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; 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; Williamson; Wilson; Wise; Wohlgenuth; Wolens; Woolley; Yarbrough; Zbranek.

Nays — Goodman; Keel; Reyna, A.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Gutierrez.

Absent — Edwards; Grusendorf; Moreno; Williams.

SB 1563 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hartnett submitted the conference committee report on **SB 1563**.

Representative Hartnett moved to adopt the conference committee report on **SB 1563**.

The motion prevailed.

HB 2272 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Thompson submitted the following conference committee report on **HB 2272**:

Austin, Texas, May 31, 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 2272** 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	Thompson
Harris	Heflin
Ellis	Dutton
Cain	Dunnam
On the part of the Senate	On the part of the House

HB 2272, A bill to be entitled An Act relating to certain court costs a person convicted of certain offenses is required to pay and to the establishment of the fugitive apprehension account; making appropriations.

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

SECTION 1. Article 102.013, Code of Criminal Procedure, is amended to read as follows:

Art. 102.013. COURT COSTS; CRIME STOPPERS ASSISTANCE ACCOUNT. (a) ~~[A defendant convicted of an offense other than a misdemeanor punishable by fine only shall pay as a cost of court \$2.~~

~~[(b) In this article, a person is considered to have been convicted in a case if:~~

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

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

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

~~[(c) An officer collecting costs under Subsection (a) of this article shall keep a separate record of the funds collected as costs under this article and shall deposit the funds in the county treasury.~~

~~[(d) An officer collecting costs under Subsection (a) of this article shall file the report required under Article 103.005 of this code. If no funds due as costs under Subsection (a) of this article are collected in a quarter, the report required for the quarter shall be filed in the regular manner and must state that no funds due under Subsection (a) of this article were collected.~~

~~[(e) The custodian of the county treasury shall keep a record of the amount of funds collected under Subsection (a) of this article and, on or before the last day of the month following each calendar quarter, remit to the comptroller funds collected under Subsection (a) of this article in the preceding quarter. The custodian of the county treasury may retain 10 percent of the funds collected under Subsection (a) of this article and the interest as a service fee if the custodian of the treasury keeps records of the amount of funds on deposit collected under Subsection (a) of this article and remits the funds to the comptroller within the period prescribed under this subsection.~~

~~[(f) The comptroller shall deposit the funds received by the comptroller under Subsection (e) of this article in an account of the General Revenue Fund to be known as the crime stoppers assistance account.~~

~~[(g) The legislature shall appropriate funds from the crime stoppers~~

assistance account to the Criminal Justice Division of the Governor's Office. The Criminal Justice Division may use 10 percent of the funds for the operation of the toll-free telephone service under Section 414.012, Government Code, and shall distribute the remainder of the funds only to local crime stoppers programs. The Criminal Justice Division may adopt a budget and rules to implement the distribution of these funds.

~~(b) [(h) All funds collected under Subsection (a) of this article are subject to audit by the comptroller.]~~ All funds distributed by the Criminal Justice Division under Subsection ~~(a)~~ [(g)] of this article are subject to audit by the state auditor. All funds collected or distributed are subject to audit by the Governor's Division of Planning Coordination.

~~(c) [(t)]~~ In this article, "local crime stoppers program" has the meaning assigned by Section 414.001, Government Code.

SECTION 2. Article 102.016, Code of Criminal Procedure, is amended to read as follows:

Art. 102.016. COSTS FOR BREATH ALCOHOL TESTING PROGRAM.

~~(a) [A person convicted of an offense under Chapter 49, Penal Code, other than an offense punishable as a Class C misdemeanor, or of an offense under the Texas Commercial Driver's License Act (Article 6687b-2, Revised Statutes), shall pay as court costs \$30, in addition to other court costs.~~

~~[(b) The officer shall collect the costs in the same manner as other costs are collected in the case.~~

~~[(c) In this article, court costs are due from the convicted person regardless of whether the person submitted a specimen of breath or blood for analysis, and a person is considered to have been convicted in a case if:~~

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

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

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

~~[(d) An officer collecting costs due under this article in cases in municipal court shall keep separate records of the funds collected under this article and shall deposit the funds in the municipal treasury.~~

~~[(e) An officer collecting costs due under this article in cases in county or district court or in appeals in county court shall keep separate records of the funds collected under this article and shall deposit the funds in the county treasury.~~

~~[(f)]~~ The custodians of municipal and county treasuries may deposit funds collected under this article in interest-bearing accounts and retain for the municipality or county interest earned on the funds. The custodians shall keep records of funds received and disbursed under this article and shall provide a yearly report of all funds received and disbursed under this article to the comptroller, the Department of Public Safety, and to each agency in the county served by the court that participates in or maintains a certified breath alcohol testing program. The comptroller shall approve the form of the report.

~~[(g) The custodian of a municipal or county treasury in a county that uses the services of a certified technical supervisor employed by the Department of Public Safety for the administration of a certified alcohol testing program, on or before the last day of the month of each calendar quarter, shall remit to the comptroller any funds collected under this article during the previous calendar quarter.]~~

(b) ~~[(h)]~~ The custodian of a municipal or county treasury in a county that maintains a certified breath alcohol testing program but does not use the services of a certified technical supervisor employed by the department may, ~~[shall remit \$7.50 of each cost collected under this article to the comptroller on or before the last day of the month of each calendar quarter, and retain \$22.50 of the cost]~~ to defray the costs of maintaining and supporting a certified alcohol breath testing program, retain \$22.50 of each court cost collected under Article 102.075 on conviction of an offense under Chapter 49, Penal Code, other than an offense that is a Class C misdemeanor.

(c) ~~[(i) The comptroller shall deposit all funds received under this article to the credit of the general revenue fund.]~~ The legislature may appropriate money deposited to the credit of the breath alcohol testing account in the general revenue fund under this subsection to the Department of Public Safety for use by the department in the implementation, administration, and maintenance of the statewide certified breath alcohol testing program.

(d) ~~[(j)]~~ The Department of Public Safety shall maintain a list of counties that do not use the services of a certified technical supervisor employed by the department.

SECTION 3. Subchapter A, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.019 to read as follows:

Art. 102.019. COSTS ON CONVICTION FOR FUGITIVE APPREHENSION. (a) A person shall pay \$5 as a court cost on conviction of:

(1) a felony; or

(2) a misdemeanor, including a criminal violation of a municipal ordinance, other than a conviction for an offense relating to pedestrians or the parking of a motor vehicle.

(b) The court shall assess and make a reasonable effort to collect the cost due under this article whether or not any other court cost is assessed or collected.

(c) For purposes of this article, a person is considered to have been convicted if:

(1) a sentence is imposed;

(2) the defendant receives community supervision or deferred adjudication; or

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

(d) Court costs under this article are collected in the same manner as other fines or costs. An officer collecting the costs shall keep separate records of the funds collected as costs under this article and shall deposit the funds in the county or municipal treasury, as appropriate.

(e) The custodian of a county or municipal treasury shall:

(1) keep records of the amount of funds on deposit collected under this article; and

(2) send to the comptroller before the last day of the first month following each calendar quarter the funds collected under this article during the preceding quarter.

(f) A county or municipality may retain 10 percent of the funds collected under this article by an officer of the county or municipality as a collection

fee if the custodian of the county or municipal treasury complies with Subsection (e).

(g) If no funds due as costs under this article are deposited in a county or municipal treasury in a calendar quarter, the custodian of the treasury shall file the report required for the quarter in the regular manner and must state that no funds were collected.

(h) The comptroller shall deposit the funds received under this article to the credit of the fugitive apprehension account in the general revenue fund.

(i) Funds collected under this article are subject to audit by the comptroller.

SECTION 4. Subchapter C, Chapter 102, Code of Criminal Procedure, is amended by adding Article 102.075 to read as follows:

Art. 102.075. COURT COSTS FOR SPECIAL SERVICES. (a) Except as provided by Subsection (b), a person convicted of an offense shall pay, in addition to all other costs:

(1) \$80 as a court cost on conviction of:

(A) a felony; or

(B) an offense punishable by imprisonment or confinement in jail for a term of more than one year;

(2) \$40 as a court cost on conviction of:

(A) a Class A misdemeanor;

(B) a Class B misdemeanor;

(C) an offense punishable by confinement in jail for a term of not more than one year; or

(D) a municipal ordinance punishable by a fine of more than \$500; or

(3) \$17 as a court cost on conviction of any offense punishable by fine only, other than an offense described by Subdivision (2)(D) of this subsection.

(b) Subsection (a) does not apply to a person convicted under Subtitle C, Title 7, Transportation Code, if the person is convicted of a provision of that subtitle regulating pedestrians or the parking of a motor vehicle.

(c) An officer collecting a cost due under this article in a case in municipal court shall keep separate records of the money collected and shall deposit the money in the municipal treasury.

(d) An officer collecting a cost due under this article in a justice, county, or district court shall keep separate records of the money collected and shall deposit the money in the county treasury.

(e) An officer collecting a cost due under this article shall file the report required by Article 103.005. If no money due as a cost under this article is collected in any quarter, the report required for that quarter shall be filed in the regular manner, and the report shall state that no money due under this article was collected.

(f) The custodian of money in a municipal or county treasury may deposit money collected under this article in an interest-bearing account. The custodian shall:

(1) keep records of the amount of money collected under this article that is on deposit in the treasury; and

(2) not later than the last day of the month following each calendar quarter, remit to the comptroller money collected under this article during the preceding quarter, as required by the comptroller.

(g) A municipality or county may retain 10 percent of the money collected under this article as a service fee for the collection. The municipality or county may retain any interest accrued on the money if the custodian of money deposited in the treasury keeps records of the amount of money collected under this article that is on deposit in the treasury and remits the funds to the comptroller within the period prescribed in Subsection (f).

(h) The comptroller shall deposit money received under this article to the credit of the following accounts in the general revenue fund according to the specified percentages:

<u>NAME OF ACCOUNT</u>	<u>PERCENTAGE</u>
<u>abused children's counseling</u>	<u>0.02%</u>
<u>crime stoppers assistance</u>	<u>0.6%</u>
<u>breath alcohol testing</u>	<u>1.28%</u>
<u>Bill Blackwood Law Enforcement Management Institute</u>	<u>5.04%</u>
<u>law enforcement officers standards and education</u>	<u>11.63%</u>
<u>comprehensive rehabilitation</u>	<u>12.37%</u>
<u>operator's and chauffeur's license</u>	<u>25.9%</u>
<u>criminal justice planning</u>	<u>29.18%</u>

(i) Of each dollar credited to the law enforcement officers standards and education account under Subsection (h):

(1) \$.333 may be used only to pay administrative expenses; and

(2) the remainder may be used only to pay expenses related to continuing education for persons licensed under Chapter 415, Government Code.

(j) Money collected under this article is subject to audit by the comptroller. Money spent is subject to audit by the state auditor.

(k) Except for a conviction in a municipal court or as otherwise provided by this article, Chapter 103 applies to the collection of a cost under this article.

(l) In this article:

(1) court costs are due from the person regardless of whether the person submitted a specimen of breath or blood for analysis; and

(2) a person is considered to have been convicted in a case if:

(A) a sentence is imposed;

(B) the person receives community supervision or deferred adjudication; or

(C) the court defers final disposition of the case.

(m) In addition to the cost on conviction imposed by Subsection (a), a person convicted of an offense described by Subsection (a) shall pay 25 cents on conviction of the offense. The comptroller shall deposit money received under this subsection to the credit of an account in the state treasury to be used only for the establishment and operation of the Center for the Study and Prevention of Juvenile Crime and Delinquency at Prairie View A&M University. Subsection (h) does not apply to money received under this subsection.

SECTION 5. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.0097 to read as follows:

Sec. 411.0097. FUGITIVE APPREHENSION ACCOUNT. (a) In this section, "department" means the Department of Public Safety.

(b) In addition to the other amounts appropriated to the department for the biennium beginning September 1, 1997, the department is appropriated from the fugitive apprehension account for the purpose of paying the cost to the department of apprehending individuals for whom warrants have been issued under Section 13, Article 42.18, Code of Criminal Procedure:

(1) \$2,983,975 for the fiscal year beginning September 1, 1997; and

(2) \$1,961,333 for the fiscal year beginning September 1, 1998.

(c) The legislature may appropriate funds in the fugitive apprehension account for the purpose of paying the cost of incarcerating individuals whose apprehensions by the department are paid for with funds appropriated under Subsection (b).

(d) Notwithstanding the General Appropriations Act relating to the number of full-time equivalent employees that may be employed by an agency, the department may expend funds appropriated under this section for the purpose of employing 27 full-time equivalent employees for the fiscal biennium beginning September 1, 1997.

(e) In addition to other amounts appropriated for the biennium beginning September 1, 1997, the Texas Department of Criminal Justice is appropriated from the fugitive apprehension account \$21,101,563 for that biennium for the purpose of paying the cost of contracting with a county or private entity to obtain additional capacity for incarcerating individuals convicted of felonies, including individuals whose apprehensions by the department are paid for with funds appropriated under Subsection (b), if the capacity of the Texas Department of Criminal Justice becomes inadequate.

(f) This section expires September 1, 1999.

SECTION 6. The following are repealed:

(1) Article 37.072, Code of Criminal Procedure;

(2) Article 102.015, Code of Criminal Procedure;

(3) Articles 102.051, 102.052, 102.053, 102.054, and 102.055, Code of Criminal Procedure;

(4) Subchapter D, Chapter 102, Code of Criminal Procedure;

(5) Section 601.192, Transportation Code; and

(6) Sections 415.082 and 415.083, Government Code.

SECTION 7. (a) Except as provided by Subsection (b), this Act takes effect September 1, 1997.

(b) Article 102.075(m), Code of Criminal Procedure, as added by this Act, is effective on the date on which an Act of the 75th Legislature, Regular Session, 1997, creating the Center for the Study and Prevention of Juvenile Crime at Prairie View A&M University, becomes law. If such an act does not become law, Article 102.075(m) does not take effect.

(c) The change in law made by this Act applies only to a court cost imposed on conviction of an offense committed on or after the effective date of this Act. A court cost imposed on conviction of an offense committed before the effective date of this Act is governed by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For the purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

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.

Representative Thompson moved to adopt the conference committee report on **HB 2272**.

The motion prevailed.

SB 382 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Smithee submitted the conference committee report on **SB 382**.

Representative Smithee moved to adopt the conference committee report on **SB 382**.

The motion prevailed.

HB 2846 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Berlanga submitted the following conference committee report on **HB 2846**:

Austin, Texas, May 31, 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 2846** 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.

Carona	Hirschi
Gallegos	Maxey
Moncrief	Davila
Nixon	Berlanga
Madla	

On the part of the Senate On the part of the House

HB 2846, A bill to be entitled An Act relating to the provision of health care services by advanced practice nurses and physician assistants in collaborative practice with physicians.

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

SECTION 1. Section 3.06(d)(5)(D), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

(D) Physician supervision shall be adequate if a delegating physician:

(i) is responsible for the formulation or approval of such physician's orders, standing medical orders, standing delegation orders, or other orders or protocols and periodically reviews such orders and the services provided patients under such orders;

(ii) is on site to provide medical direction and consultation at least once every 10 business days during which the advanced practice nurse or physician assistant is on site providing care [a week to provide medical direction and consultation];

(iii) receives a daily status report from the advanced practice nurse [registered nurse] or physician assistant on any problems or complications encountered; and

(iv) is available through direct telecommunication for consultation, assistance with medical emergencies, or patient referral.

SECTION 2. Section 3.06(d)(5)(E), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended by adding Subparagraph (vii) to read as follows:

(vii) "Advanced practice nurse" has the meaning assigned to that term by Section 8, Article 4514, Revised Statutes.

SECTION 3. Section 3.06(d)(6)(G)(iii), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), is amended to read as follows:

(iii) "Primary practice site" means:

(a) the practice location where the physician spends the majority of the physician's time;

(b) a licensed hospital, a licensed long-term care facility, and a licensed adult care center where both the physician and the physician assistant or advanced nurse practitioner are authorized to practice, a clinic operated by or for the benefit of a public school district for the purpose of providing care to the students of that district and the siblings of those students, if consent to treatment at that clinic is obtained in a manner that complies with Chapter 32, Family Code, or an established patient's residence; or

(c) where the physician is physically present with the physician assistant or advanced nurse practitioner.

SECTION 4. Section 14, Texas Health Maintenance Organization Act (Article 20A.14, Vernon's Texas Insurance Code), is amended by adding Subsections (i) and (j) to read as follows:

(i) If an advanced practice nurse or physician assistant is authorized to provide care under Section 3.06(d)(5) or (6), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), by a physician participating in a health maintenance organization's provider network, the health maintenance organization may not refuse a request made by the physician and physician assistant or advanced practice nurse to have the physician assistant or advanced practice nurse identified as a provider in the provider network unless the physician assistant or advanced practice nurse fails to meet the quality of care standards previously established by the health maintenance organization for participation in the network by advanced practice nurses and physician assistants.

(j) A health maintenance organization may not refuse to contract with an advanced practice nurse or physician assistant to be included in the organization's provider network, refuse to reimburse the advanced practice nurse or physician assistant for covered services, or otherwise discriminate against the advanced practice nurse or physician assistant solely because the advanced

practice nurse or physician assistant is not identified under Section 3, Article 21.52, Insurance Code.

SECTION 5. Subchapter G, Chapter 3, Insurance Code, is amended by adding Article 3.70-3C to read as follows:

Art. 3.70-3C. USE OF ADVANCED PRACTICE NURSES AND PHYSICIAN ASSISTANTS BY PREFERRED PROVIDER PLANS

Sec. 1. In this article:

(1) "Preferred provider" means a physician, advanced practice nurse, physician assistant, or other health care provider, or an organization of physicians or health care providers, who contracts with an insurer to provide medical care or health care to insureds covered by a health insurance policy, certificate, or contract.

(2) "Preferred provider benefit plan" means a benefit plan through which an insurer provides, through its health insurance policy, for the payment of a level of coverage that is different from the basic level of coverage provided by the health insurance policy if the insured uses a preferred provider.

Sec. 2. If an advanced practice nurse or physician assistant is authorized to provide care under Section 3.06(d)(5) or (6), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), by a physician participating as a preferred provider under a preferred provider benefit plan, that plan may not refuse a request made by the physician and physician assistant or advanced practice nurse to have the physician assistant or advanced practice nurse included as a preferred provider by the plan unless the physician assistant or advanced practice nurse fails to meet the quality of care standards previously established by the preferred provider benefit plan for participation in the plan by advanced practice nurses and physician assistants.

Sec. 3. A preferred provider benefit plan may not refuse to contract with an advanced practice nurse or physician assistant to be included in the plan's provider network, refuse to reimburse the advanced practice nurse or physician assistant for covered services, or otherwise discriminate against the advanced practice nurse or physician assistant because the advanced practice nurse or physician assistant is not identified under Section 3, Article 21.52, Insurance Code.

SECTION 6. Section 2(B), Chapter 397, Acts of the 54th Legislature, Regular Session, 1955 (Article 3.70-2, Vernon's Texas Insurance Code), is amended to read as follows:

(B) No policy of accident and sickness insurance shall make benefits contingent upon treatment or examination by a particular practitioner or by particular practitioners of the healing arts hereinafter designated unless such policy contains a provision designating the practitioner or practitioners who will be recognized by the insurer and those who will not be recognized by the insurer. Such provision may be located in the "Exceptions" or "Exceptions and Reductions" provisions, or elsewhere in the policy, or by endorsement attached to the policy, at the insurer's option. In designating the practitioners who will and will not be recognized, such provision shall use the following terms: Doctor of Medicine, Doctor of Osteopathy, Doctor of Dentistry, Doctor of Chiropractic, Doctor of Optometry, Doctor of Podiatry, Licensed Audiologist, Licensed Speech-language Pathologist, Doctor in Psychology, Licensed Master

Social Worker—Advanced Clinical Practitioner, Licensed Dietitian, Licensed Professional Counselor, Licensed Marriage and Family Therapist, Licensed Chemical Dependency Counselor, Licensed Hearing Aid Fitter and Dispenser, Advanced Practice Nurse, Physician Assistant, and Licensed Psychological Associate.

For purposes of this Act, such designations shall have the following meanings:

Doctor of Medicine: One licensed by the Texas State Board of Medical Examiners on the basis of the degree "Doctor of Medicine";

Doctor of Osteopathy: One licensed by the Texas State Board of Medical Examiners on the basis of the degree of "Doctor of Osteopathy";

Doctor of Dentistry: One licensed by the State Board of Dental Examiners;

Doctor of Chiropractic: One licensed by the Texas Board of Chiropractic Examiners;

Doctor of Optometry: One licensed by the Texas Optometry Board;

Doctor of Podiatry: One licensed by the Texas State Board of Podiatric Medical Examiners;

Licensed Audiologist: One with a master's or doctorate degree in audiology from an accredited college or university and who is licensed as an audiologist by the State Board [~~Committee~~] of Examiners for Speech-Language Pathology and Audiology;

Licensed Speech-language Pathologist: One with a master's or doctorate degree in speech pathology or speech-language pathology from an accredited college or university and who is licensed as a speech-language pathologist by the State Board [~~Committee~~] of Examiners for Speech-Language Pathology and Audiology;

Doctor in Psychology: One licensed by the Texas State Board of Examiners of Psychologists and certified as a Health Service Provider;

Licensed Master Social Worker—Advanced Clinical Practitioner: One licensed by the Texas State Board of Social Worker Examiners as a Licensed Master Social Worker with the order of recognition of Advanced Clinical Practitioner;

Licensed Dietitian: One licensed by the Texas State Board of Examiners of Dietitians;

Licensed Professional Counselor: One licensed by the Texas State Board of Examiners of Professional Counselors;

Licensed Marriage and Family Therapist: One licensed by the Texas State Board of Examiners of Marriage and Family Therapists;

Licensed Chemical Dependency Counselor: One licensed by the Texas Commission on Alcohol and Drug Abuse;

Licensed Hearing Aid Fitter and Dispenser: One licensed by the Texas Committee [~~Board~~] of Examiners in the Fitting and Dispensing of Hearing Instruments [~~Aids~~];

Advanced Practice Nurse: One licensed by the Board of Nurse Examiners as a registered nurse and recognized by that board as an advanced practice nurse;

Physician Assistant: One licensed by the Texas State Board of Physician Assistant Examiners; and

Licensed Psychological Associate: One licensed by the Texas State Board of Examiners of Psychologists and practicing under the supervision of a licensed psychologist.

SECTION 7. Sections 4-6 of this Act apply only to an insurance policy or evidence of coverage that is delivered, issued for delivery, or renewed on or after January 1, 1998. A policy or evidence of coverage that is delivered, issued for delivery, or renewed before January 1, 1998, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for this purpose.

SECTION 8. This Act takes effect September 1, 1997.

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.

Representative Berlanga moved to adopt the conference committee report on **HB 2846**.

A record vote was requested.

The motion prevailed by (Record 636): 82 Yeas, 61 Nays, 2 Present, not voting.

Yeas — Alexander; Alvarado; Averitt; Bailey; Berlanga; Bosse; Brimer; Burnam; Chavez; Coleman; Cook; Counts; Cuellar; Danburg; Davila; Davis; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Flores; Gallego; Garcia; Giddings; Glaze; Goodman; Gray; Greenberg; Haggerty; Hawley; Hernandez; Hightower; Hinojosa; Hirschi; Hochberg; Hodge; Jones, D.; Jones, J.; Junell; King; Lewis, G.; Lewis, R.; Longoria; Luna; Maxey; McClendon; McReynolds; Moreno; Naishtat; Oakley; Oliveira; Olivo; Pickett; Place; Price; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Rhodes; Sadler; Serna; Solis; Stiles; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Williamson; Wilson; Wise; Wolens; Yarbrough; Zbranek.

Nays — Allen; Bonnen; Carter; Chisum; Christian; Clark; Crabb; Craddick; Culberson; Delisi; Denny; Driver; Elkins; Finnell; Galloway; Goolsby; Grusendorf; Hamric; Hartnett; Heflin; Hilbert; Hilderbran; Hill; Holzheuser; Horn; Howard; Hunter; Hupp; Isett; Jackson; Janek; Kamel; Keel; Keffer; Krusee; Kubiak; Kuempel; Madden; Marchant; McCall; Merritt; Moffat; Mowery; Nixon; Pitts; Rabuck; Reyna, E.; Roman; Seaman; Shields; Siebert; Smith; Solomons; Staples; Swinford; Talton; Walker; West; Williams; Wohlgemuth; Woolley.

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

Absent, Excused — Corte; Gutierrez.

Absent — Patterson; Smithee.

SB 1253 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Naishtat submitted the conference committee report on **SB 1253**.

Representative Naishtat moved to adopt the conference committee report on **SB 1253**.

The motion prevailed.

SB 1284 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Chavez submitted the conference committee report on **SB 1284**.

Representative Chavez moved to adopt the conference committee report on **SB 1284**.

The motion prevailed.

HR 1353 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1353**, suspending the limitations on the conferees for **SB 517**.

SB 1419 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Rangel submitted the conference committee report on **SB 1419**.

DEBATE ON SB 1419

REPRESENTATIVE WILSON: Members, this is **SB 1419** which we debated in the house for some time a little while ago. The senate made some, what I would term as non-substantative changes, if you look at your side by side comparison.

REPRESENTATIVE DUTTON: Is it the intent of this bill that we apply the same admission standards, as in grade point averages, to all entering freshman at publicly funded higher education institutions?

WILSON: Yes, sir, it is in keeping with the intent of your and Mr. Swinford's amendments as the bill passed the house and also the original bill that passed.

DUTTON: For the house's understanding, if a school admitted a freshman who plays football at a 2.5 grade point average (GPA) then they can also admit just a regular student who has a 2.5 GPA?

WILSON: That is correct. The GPA is used as a criterion for admission and the minimum that is allowed applies to everybody across the board.

DUTTON: Now, let's suppose that the university has several admissions requirements or categories. Let's say if you had a 900 SAT score you have to have at least a GPA of 3.0, but if you have a 1200 on the SAT you can get in with just a 2.5 GPA. I understand that this bill will prohibit that?

WILSON: No, it doesn't prohibit that, but if you establish that lower GPA and another student comes in with the same GPA and the same SAT, then they should be allowed in.

DUTTON: But, as I understand it, if the university said because you're an athlete we will admit you with a 2.5 GPA and a 900 SAT, then anybody meeting those same standards would be eligible for admission.

WILSON: That is absolutely correct. If those are the only two criteria used and both students meet the same criteria, then they would have to both be admitted.

DUTTON: So, what we're really doing is letting the athletes basically set the admission standards of all entering freshmen?

WILSON: If the lowest GPA used is that of an athlete and that's the lowest one they would let in, that's absolutely correct. But it could also be a music major too.

DUTTON: Help me understand the difference between, as the bill points out, high school GPA and class rank? I understand that GPA is used to determine class rank.

WILSON: That is correct.

DUTTON: So, let's assume that a university used class rank instead of GPA for admitting students. If they took a student, to be an athlete, from the bottom half of his high school class along with certain SAT scores, wouldn't they have to admit, then, any student who met the same standard under this bill?

WILSON: That is correct.

DUTTON: I want to be more specific. If athletes were admitted with an 800 SAT score, and they ranked in the bottom half of their high school class, wouldn't all their classmates in the bottom half of their classes across the state and the identical 800 SAT scores also be eligible for admission?

WILSON: That is absolutely correct.

DUTTON: My last question, which is one that I think clears up any misunderstanding—are UT and A&M covered under this bill?

WILSON: Yes, they are.

DUTTON: So, all publicly funded universities in this state would have to be covered by this bill?

WILSON: That is correct.

REPRESENTATIVE UHER: Mr. Speaker, members, this is the bill we debated a couple of weeks ago. I think the conference committee report addresses the issues that concerned both the proponents and opponents of that issue. Every university in this state has a policy manual that they give to each of the student athletes. The University of Texas, for instance, has a program that is given to each student. The same is true at Texas Tech University, Texas A&M University, University of Houston, Southwest Texas, and every school that falls within the NCAA divisions. In it, it provides that the student athlete's first goal is to be an academic student as well. And so, the language that has come out of the conference committee addresses the issues, and I want to emphasize to the members that every university does emphasize that the student athlete also become a student of academic achievement.

REPRESENTATIVE KUBIAK: Are the minimum admission requirements, in the conference committee bill, now different for student athletes when compared to students who are not receiving such scholarships?

UHER: No. They are now clearly the same for all students—unlike earlier versions of this bill.

KUBIAK: Are these admission requirements for student athletes now consistent with academic standards established by the NCAA?

UHER: Yes.

KUBIAK: Will the requirements of this bill jeopardize the recruitment of student athletes at Texas universities.

UHER: No. All student athletes must meet the academic requirements established by the NCAA and these are uniformly enforced in all states. Most student athletes are good students in their own right—their athletic ability merely provides an avenue for furthering their education.

KUBIAK: Are the admissions criteria in this bill for student athletes consistent with the Hopwood decision?

UHER: Yes. Student athletes must meet the same minimum criteria as other students, if an institution has a minimum GPA for admission. In any event, the courts have clearly stated that a university may consider special talents when admitting students. The ability to play the cello, to make a downfield tackle or to understand chaos theory was cited by the courts as examples of such special talents.

KUBIAK: Do student athletes receive undue benefits from the universities?

UHER: No. College athletics have been an integral part of higher education for many years. Athletic programs provide for a rich collegiate experience that benefits not only the broader student body, but also alumni and others who remain associated with and support the university.

Athletics provide opportunities for students to receive a higher education, and, for some, avenues to rewarding professional athletic careers. Scholarships for student athletes are financed by revenue generated by the athletic programs.

The student athlete is a valuable asset to a university and to the Texas community at large.

KUBIAK: At one time, universities said that this legislation would devastate intercollegiate athletics in Texas and drive many athletes to schools outside the state—is that still the case with this conference committee report?

UHER: The answer is unequivocally no. The bill, in its current form is consistent with NCAA regulations, so there is no longer a problem.

KUBIAK: What impact, if any, do you anticipate this bill will have on minority enrollment at Texas' public universities?

UHER: The bill should not impact, negatively or positively, minority enrollment.

KUBIAK: Does this bill establish new regulations that freshman athletic recruits must meet?

UHER: Only if an institution has a minimum GPA requirement for its entering freshmen.

KUBIAK: Does UT Austin have a minimum GPA requirement for freshman admissions?

UHER: No. However, The University does use class rankings, test scores, essays, and other factors in its admissions process.

REPRESENTATIVE S. TURNER: Mr. Uher, can you tell me the significance of what we've just been through?

UHER: Mr. Turner, what we just read was the legislative intent behind the conference committee report. I think there had been some question raised by the debate was done on **SB 1419** on second reading. The conference committee report is somewhat different than what the bill was when it left the house with Mr. Wilsons' amendment. For purposes of the record, we wanted to emphasize, as Mr. Dutton did, what these changes meant.

S. TURNER: Give me your understanding of the difference between the conference committee report and the bill that left the house.

UHER: Well, the conference committee report deals with the GPA. That was not a part of Mr. Wilson's amendment on second reading and as it passed the house on third reading. So it makes a difference on the approach that was taken as the bill was approved in this body as it went back to the senate.

S. TURNER: Okay, so to the extent that a college or university is not admitting students with a minimum GPA as a criterion, then it is your understanding that the bill has no effect?

UHER: Under this language, if a college uses GPA standards, then it applies. If a college does not use GPA standards for admissions, then it does not apply.

S. TURNER: Give me your understanding of what schools in the State of Texas have utilized GPAs for admission standards.

UHER: I am not aware of any.

S. TURNER: But UT and A&M are not?

UHER: They do not, they use different criteria for admissions.

S. TURNER: So, to the extent that an athlete can run faster or catch a ball better, that would be significant enough to bring that student into a university based on those special qualities?

UHER: No, sir.

S. TURNER: I thought I understood that in your response to Dr. Kubiak when we were talking about the other elements that a college or university could utilize in attracting an athlete to a university and, I thought I understood, that to the extent that an athlete could run faster, could catch a ball better, that would maybe be a significant enough element to bring that individual to a college campus or university.

UHER: Mr. Kubiak never asked that question.

S. TURNER: Under the Hopwood decision?

UHER: Under the Hopwood decision, the question was does this comply with the Hopwood case, and the answer to that was, yes, it does. Now I'm talking about the conference committee report.

S. TURNER: Okay, I'm going to vote for it, but as we approach the final hours of this legislative session, I am just in awe of the fact of how we can work so desperately to make sure our colleges and universities have these athletes and at the same time as we leave this session that The University of Texas Law School will happily be divorced of any minority at its law school. I am simply amazed how we will put forth every effort to see that our athletic program is diverse with black and brown athletes, but we will not put forth the same effort to see that our CPA programs and law school programs have minority students. I am simply amazed.

UHER: Mr. Turner, I support your very thoughts because I do believe that in diversity we have strength. When we exclude some part of our population, we have ultimately injured ourselves.

S.TURNER: I guess maybe I am speaking to the fact that as this bill left the house and went to the senate, we had administrators and chancellors from our colleges and universities lobbying to weaken this bill in order to make sure that the athletic programs had minority athletes, but we had chancellors from UT and administrators from A&M and college presidents from almost every public university of this state demanding that we weaken this bill, but we do not have the same response from them to make sure that the law schools and our business schools have minority students enrolled come this fall. I just think it's a downright shame and that both chambers will join with the same presidents and the same chancellors to make sure that blacks and browns are on the football field and will make sure to weaken the standards to make sure that they can catch a football, but they will not put forth the same effort to make sure that there is an adequate number of students attending our law schools. It's an indictment on this body, it's an indictment on both chambers, it's an indictment on...

UHER: I have served on the Higher Education committee for ten years. I know that in working with institutions all across this state that this state is making an effort to recruit and bring in minority students from not only this state but also from other states. We welcome any student who will come, we want them to come and we want them to come now. Hopwood was a case that was decided by a court. But all of us in this room, all of us in this legislative body need to encourage every student to look into attending their state university, enrolling there, and trying to help them to progress. I can tell you as a farm boy coming from a small school, it was a challenge to go to college. I am a first generation college graduate, as are my sisters. We need to make that possible for every family.

S. TURNER: I appreciate that Mr. Uher, but I also know that under the race neutral system, that the chancellor of The University of Texas said that under the Hopwood system that the minority representation of those students in the athletic program has not decreased, but...

UHER: I can tell you that I have had many conversations with the chancellor of UT and with those at Texas A&M and The University of Houston and Texas Tech. I have had many conversations with them in which their concern was to bring more minority students into The University of Texas. The other schools feel much the same way. I've had visits with the president of Southwest Texas who was equally concerned with more enrollment of minority students.

S. TURNER: But last fall the number, for example, of black students at The University of Texas law school was right around 31. Looking at this fall, that number will probably be one, possibly two. That does not seem to me that that number represents an affirmative effort to make sure The University remains diverse. At the same time, as the number of black students drops from 31 to possibly one or two the number of black athletes at UT under a race neutral Hopwood situation, remains the same. Now, to me, that doesn't quite add up right. If you are going to put forth the effort not to lose black athletes, you should put forth the same degree of effort to make sure you don't lose black and brown law school students as well. Now, I don't know what the reasons may be, I'm only judging in terms of results, but Representative Uher, I simply stand before you to say that on our watch the SOT is not moving forward to the 21st century in a positive fashion. The only thing I stand before you to say is that if the universities can put forth the same effort under a race neutral system to make sure that athletes are diverse, they ought to put forth the same effort to make sure that the academic programs are diverse as well. I don't believe that is too much to ask. If they can put forth the same energy to weaken this bill, they ought to put forth the same energy to see that all of our students can achieve and excel. I don't think that is asking too much.

WILSON: Thank you, Mr. Speaker. Members, I want to thank Senator Farrabee and the legal department over at The University of Texas System for contributing to this debate.

Under this bill, members, it's important for us to note that, for the first time, if you have an African-American student or a Hispanic student or an Anglo student who does not have the ability to run the forty in 4.2 seconds or leap vertically over 45 inches and they have a 2.5 GPA just like the athlete on scholarship has—for the first time, then, I state that those individuals will be given an equal opportunity. They can be an honest individual. That's a special trait. They can have integrity. That's a special trait. That's as important as being able to run around a track. They can have great work ethic. That's special, too. And, I think it's time we recognized that and awarded those individuals across this state that have those kinds of attributes as well.

I move the adoption of the conference committee report, Mr. Speaker.

REMARKS ORDERED PRINTED

Representative Kubiak moved to print remarks by Representatives Kubiak and Uher on **SB 1419**.

The motion prevailed without objection.

Representative Wilson moved to print all the debate on the adoption of the conference committee report on **SB 1419**.

The motion prevailed without objection.

Representative Wilson moved to adopt the conference committee report on **SB 1419**.

The motion prevailed. (Hartnett recorded voting no)

SB 1856 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Chisum submitted the conference committee report on **SB 1856**.

Representative Chisum moved to adopt the conference committee report on **SB 1856**.

A record vote was requested.

The motion prevailed by (Record 637): 132 Yeas, 11 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Coleman; Cook; Counts; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Elkins; Farrar; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Haggerty; Hamric; Hartnett; 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; Krusee; Kuempel; Lewis, G.; Longoria; Luna; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Staples; Stiles; Swinford; Talton; Telford; Thompson; Tillery; Torres; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Nays — Crabb; Denny; Ehrhardt; Finnell; Heflin; Horn; Kubiak; Madden; Nixon; Reyna, E.; Solomons.

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

Absent, Excused — Corte; Gutierrez.

Absent — Lewis, R.; Williamson.

HB 3157 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hilbert submitted the following conference committee report on **HB 3157**:

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 3157** 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.

Wentworth	Hilbert
Bivins	Hunter
Brown	McCall
Cain	Danburg
Whitmire	
On the part of the Senate	On the part of the House

HB 3157, A bill to be entitled An Act relating to excepting certain legislative documents from required disclosure under the open records law.

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

SECTION 1. Section 552.106, Government Code, is amended to read as follows:

Sec. 552.106. EXCEPTION: CERTAIN LEGISLATIVE DOCUMENTS.

(a) A draft or working paper involved in the preparation of proposed legislation is excepted from the requirements of Section 552.021.

(b) An internal bill analysis or working paper prepared by the governor's office for the purpose of evaluating proposed legislation is excepted from the requirements of Section 552.021.

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 Hilbert moved to adopt the conference committee report on **HB 3157**.

A record vote was requested.

The motion prevailed by (Record 638): 143 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Clark; Cook; 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; 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; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Sadler; Seaman; Serna; Shields; Siebert; Smith; Smithee; Solis; Solomons; Staples; Stiles; Swinford; Talton; 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 — Corte; Gutierrez.

Absent — Coleman; Nixon; Telford.

HB 1305 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Brimer submitted the following conference committee report on **HB 1305**:

Austin, Texas, May 31, 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 1305** 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
Duncan
Sibley
Moncrief

Brimer
Woolley
Solomons
Denny
Giddings

On the part of the Senate

On the part of the House

HB 1305, A bill to be entitled An Act relating to safety consultations.

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

SECTION 1. Section 411.003, Labor Code, is amended to read as follows:

Sec. 411.003. Immunity from Certain Liability. (a) An insurance company, the agent, servant, or employee of the insurance company, or a safety consultant who performs a safety consultation under Subchapter D or E has no liability for an accident, injury, or occupational disease based on an allegation that the accident, injury, or occupational disease was caused or could have been prevented by a program, inspection, or other activity or service undertaken by the insurance company for the prevention of accidents in connection with operations of the employer.

(b) The immunity provided by Subsection (a) does not affect the liability of an insurance carrier for compensation or as otherwise provided in this subtitle.

SECTION 2. This Act shall apply to a cause of action, pleadings or motions in a suit filed on or after the effective date hereof. Any suit filed and commenced before the effective date of this Act is governed by the law applicable thereto and in effect prior to the effective date hereof, and, solely for that purpose, such law is continued in effect.

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 Brimer moved to adopt the conference committee report on **HB 1305**.

The motion prevailed.

HB 2517 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Dunnam submitted the following conference committee report on **HB 2517**:

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 2517** 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.

Shapleigh
Bivins
West
Sibley

Dunnam
Cuellar
Solis

On the part of the Senate On the part of the House

HB 2517, A bill to be entitled An Act relating to public postsecondary education, including the performance of junior college districts and the organization of the Texas State Technical College System.

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

SECTION 1. Subchapter A, Chapter 130, Education Code, is amended by adding Section 130.0035 to read as follows:

Sec. 130.0035. PERFORMANCE REPORTS. (a) As soon as practicable after the end of each academic year, a junior college district shall prepare an annual performance report for that academic year. The report shall be prepared in a form that would enable any interested person, including a prospective student, to understand the information in the report and to compare the information to similar information for other junior college districts. A junior college district shall make the report available to any person on request.

(b) The report must include the following information for the junior college district for the academic year covered by the report:

- (1) the rate at which students completed courses attempted;
- (2) the number and types of degrees and certificates awarded;
- (3) the percentage of graduates who passed licensing exams related to

the degree or certificate awarded, to the extent the information can be determined;

(4) the number of students or graduates who transfer to or are admitted to a public university;

(5) the passing rates for students required to be tested under Section 51.306;

(6) the percentage of students enrolled who are academically disadvantaged;

(7) the percentage of students enrolled who are economically disadvantaged;

(8) the racial and ethnic composition of the district's student body; and

(9) the percentage of student contact hours taught by full-time faculty.

(c) The Legislative Budget Board shall develop recommended standards for reports under this section, in consultation with junior college districts, the Texas Higher Education Coordinating Board, the governor's office of budget and planning, and the state auditor.

(d) A junior college district is not required to prepare a report under this section before the report covering the 1997-1998 academic year. This subsection expires January 1, 2000.

SECTION 2. Chapter 321, Government Code, is amended by adding Section 321.0137 to read as follows:

Sec. 321.0137. INDEPENDENT AUDIT OF JUNIOR COLLEGE DISTRICT. (a) At a reasonable time in advance of an independent audit of a junior college district, the state auditor shall provide the presiding officer of the district's governing body and the chief executive officer of the district with written information relating to the procedures for and scope of the audit. The state auditor shall include in the materials information describing:

(1) how the appropriate representatives of the district may participate in the audit planning process; and

(2) how the district may request information or assistance in preparing for the audit from the state auditor.

(b) The state auditor shall seek the recommendations of the Texas Higher Education Coordinating Board in preparing materials to be provided under Subsection (a).

SECTION 3. This Act takes effect September 1, 1997.

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 Dunnam moved to adopt the conference committee report on **HB 2517**.

The motion prevailed.

HB 2577 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hill submitted the following conference committee report on **HB 2577**:

Austin, Texas, May 31, 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 2577** 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	Hill
Barrientos	Bailey
Harris	Clark
Madla	Cuellar
Whitmire	Ehrhardt
On the part of the Senate	On the part of the House

HB 2577, A bill to be entitled An Act relating to the Texas Department of Housing and Community Affairs and to low income and affordable housing.

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

SECTION 1. Section 2166.003(a), Government Code, is amended to read as follows:

- (a) Unless otherwise provided, this chapter does not apply to:
- (1) a project constructed by and for the Texas Department of Transportation;
 - (2) a project constructed by and for a state institution of higher education;
 - (3) a pen, shed, or ancillary building constructed by and for the Department of Agriculture for the processing of livestock before export;
 - (4) a project constructed by the Parks and Wildlife Department;
 - (5) a repair or rehabilitation project, except a major renovation, of buildings and grounds on the commission inventory;
 - (6) a repair and rehabilitation project of another using agency, if all labor for the project is provided by the regular maintenance force of the using agency under specific legislative authorization and the project does not require the advance preparation of working plans or drawings; ~~or~~
 - (7) a repair and rehabilitation project involving the use of contract labor, if the project has been excluded from this chapter by commission rule and does not require the advance preparation of working plans or drawings; or
 - (8) a repair, rehabilitation, or construction project on property owned by the Texas Department of Housing and Community Affairs or the Texas State Affordable Housing Corporation.

SECTION 2. Section 2167.001(b), Government Code, is amended to read as follows:

- (b) This chapter does not apply to:
- (1) aircraft hangar space;
 - (2) radio antenna space;
 - (3) boat storage space;

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

SECTION 3. Section 2305.033(a), Government Code, is amended to read as follows:

(a) The Texas Department of Housing and Community Affairs is the supervising state agency for the emergency nutrition and temporary emergency relief program established under Subchapter AA, Chapter 2306 [~~Chapter 34, Human Resources Code~~].

SECTION 4. Section 2306.001, Government Code, is amended to read as follows:

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

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

SECTION 5. Section 2306.004, Government Code, is amended to read as follows:

Sec. 2306.004. DEFINITIONS. In this chapter:

- (1) "Board" means the governing board of the department.
- (2) "Bond" means an evidence of indebtedness or other obligation, regardless of the source of payment, issued by the department under Subchapter P, including a bond, note, or bond or revenue anticipation note, regardless of whether the obligation is general or special, negotiable or nonnegotiable, in bearer or registered form, in certified or book-entry form, in temporary or permanent form, or with or without interest coupons.
- (3) "Contract for Deed" means a seller-financed contract for the conveyance of real property under which:
 - (A) legal title does not pass to the purchaser until the consideration of the contract is fully paid to the seller; and

(B) the seller's remedy for nonpayment is rescision or forfeiture or acceleration of any remaining payments rather than judicial or nonjudicial foreclosure.

(4) "Department" means the Texas Department of Housing and Community Affairs.

(5) [~~(4)~~] "Director" means the executive director of the department.

(6) [~~(5)~~] "Economically depressed or blighted area" means an area:

(A) that is a qualified census tract as defined by Section 143(j), Internal Revenue Code of 1986 (26 U.S.C. Section 143(j)) or has been determined by the housing finance division to be ~~[a qualified census tract or]~~ an area of chronic economic distress under Section 143 [~~103A~~], Internal Revenue Code of ~~1986~~ [~~1954~~] (26 U.S.C. Section ~~143~~ [~~103A~~]);

(B) established in a municipality that has a substantial number of substandard, slum, deteriorated, or deteriorating structures and that suffers from a high relative rate of unemployment; or

(C) that has been designated as [designed and included in] a reinvestment zone [~~tax increment district created~~] under Chapter 311, Tax Code [~~695, Acts of the 66th Legislature, Regular Session, 1979 (Article 1066d, Vernon's Texas Civil Statutes)~~].

(7) [~~(6)~~] "Elderly individual" means an individual 60 years of age or older or of an age specified by the applicable federal program.

(8) [~~(7)~~] "Family of moderate income" means a family:

(A) that is determined by the board to require assistance, taking into account:

(i) the amount of the total income available for housing needs of the individuals and families;

(ii) the size of the family;

(iii) the cost and condition of available housing facilities;

(iv) the ability of the individuals and families to compete successfully in the private housing market and to pay the amounts required by private enterprise for sanitary, decent, and safe housing; and

(v) standards established for various federal programs determining eligibility based on income; and

(B) that does not qualify as a family of low income.

(9) [~~(8)~~] "Federal government" means the United States of America and includes any corporate or other instrumentality of the United States of America, including the Resolution Trust Corporation.

(10) [~~(9)~~] "Federal mortgage" means a mortgage loan for residential housing:

(A) that is made by the federal government; or

(B) for which a commitment to make has been given by the federal government.

(11) [~~(10)~~] "Federally assisted new communities" means federally assisted areas that receive or will receive assistance in the form of loan guarantees under Title X of the National Housing Act (12 U.S.C. Section 1701 et seq.), and a portion of that federally assisted area has received grants under Section 107(a)(1) of the Housing and Community Development Act of 1974, as amended (42 U.S.C. Section 5301 et seq.).

(12) [~~(11)~~] "Federally insured mortgage" means a mortgage loan for residential housing that:

(A) is insured or guaranteed by the federal government; or

(B) the federal government has committed to insure or guarantee.

(13) [~~(12)~~] "Housing development" means property or work or a project, building, structure, facility, or undertaking, whether existing, new construction, remodeling, improvement, or rehabilitation, that meets or is designed to meet minimum property standards required by the department and that is financed under the provisions of this chapter for the primary purpose of providing sanitary, decent, and safe dwelling accommodations for rent, lease, use, or purchase by individuals and families of low and very low income and families of moderate income in need of housing. The term includes:

(A) buildings, structures, land, equipment, facilities, or other real or personal properties that are necessary, convenient, or desirable appurtenances, including streets, water, sewers, utilities, parks, site preparation, landscaping, stores, offices, and other nonhousing facilities, such as administrative, community, and recreational facilities the department determines to be necessary, convenient, or desirable appurtenances; and

(B) single and multifamily dwellings in rural and urban areas.

(14) [~~(13)~~] "Housing sponsor" means:

(A) an individual, including an individual or family of low and very low income or family of moderate income, joint venture, partnership, limited partnership, trust, firm, corporation, or cooperative that is approved by the department as qualified to own, construct, acquire, rehabilitate, operate, manage, or maintain a housing development, subject to the regulatory powers of the department and other terms and conditions in this chapter; or

(B) in an economically depressed or blighted area, or in a federally assisted new community located within a home-rule municipality, the term may include an individual or family whose income exceeds the moderate income level if at least 90 percent of the total mortgage amount available under a mortgage revenue bond issue is designated for individuals and families of low income or families of moderate income.

(15) [~~(14)~~] "Individuals and families of low income" means individuals and families earning not more than 80 percent of the area median income or applicable federal poverty line, as determined under Section 2306.123 or Section 2306.1231.

(16) [~~(15)~~] "Individuals and families of very low income" means individuals and families earning not more than 60 percent of the area median income or applicable federal poverty line, as determined under Section 2306.123 or Section 2306.1231.

(17) "Individuals and families of extremely low income" means individuals and families earning not more than 30 percent of the area median income or applicable federal poverty line, as determined under Section 2306.123 or Section 2306.1231.

(18) [~~(16)~~] "Land development" means:

(A) acquiring land for residential housing construction; and

(B) making, installing, or constructing nonresidential

improvements that the department determines are necessary or desirable for a housing development to be financed by the department, including:

- (i) waterlines and water supply installations;
- (ii) sewer lines and sewage disposal installations;
- (iii) steam, gas, and electric lines and installations;

and

- (iv) roads, streets, curbs, gutters, and sidewalks,

whether on or off the site.

(19) [(17)] "Local government" means a county, municipality, special district, or any other political subdivision of the state, a public, nonprofit housing finance corporation created under Chapter 394, Local Government Code, or a combination of those entities.

(20) [(18)] "Mortgage" means an [~~interest-bearing~~] obligation, including a mortgage, mortgage deed, bond, note, deed of trust, or other instrument, that is a lien:

(A) on real property; or

(B) on a leasehold under a lease having a remaining term that, at the time the lien is acquired, does not expire until after the maturity date of the [~~interest-bearing~~] obligation secured by the lien.

(21) [(19)] "Mortgage lender" means a bank, trust company, savings bank, mortgage company, mortgage banker, credit union, national banking association, savings and loan association, life insurance company, or other financial institution authorized to transact business in this state and approved as a mortgage lender by the department.

(22) [(20)] "Mortgage loan" means an [~~interest-bearing~~] obligation secured by a mortgage.

(23) [(21)] "Municipality" includes only a municipality in this state.

(24) [(22)] "Public agency" means the department or any [an] agency, board, authority, department, commission, political subdivision, municipal corporation, district, public corporation, body politic, or instrumentality of this state, including a county, municipality, housing authority, state-supported institution of higher education, school district, junior college, other district or authority, or other type of governmental entity of this state.

(25) [(23)] "Real estate owned contractor" means a person required to meet the obligations of a contract with the department [~~housing finance division~~] for managing and marketing foreclosed property.

(26) [(24)] "Real property" means land, including improvements and fixtures on the land, property of any nature appurtenant to the land or used in connection with the land, and a legal or equitable estate, interest, or right in land, including leasehold interests, terms for years, and a judgment, mortgage, or other lien.

(27) [(25)] "Reserve fund" means any [~~the housing finance division's~~] reserve fund established by the department.

(28) [(26)] "Residential housing" means a specific work or improvement undertaken primarily to provide dwelling accommodations, including the acquisition, construction, reconstruction, remodeling, improvement, or rehabilitation of land and buildings and improvements to the buildings for residential housing and other incidental or appurtenant nonhousing facilities.

(29) [(27)] "Servicer" means a person required to meet contractual obligations with the housing finance division or with a mortgage lender relating to a loan financed under Subchapter J, including:

- (A) purchasing mortgage certificates backed by mortgage loans;
- (B) collecting principal and interest from the borrower;
- (C) sending principal and interest payments to the division;
- (D) preparing periodic reports;
- (E) notifying the primary mortgage and pool insurers of delinquent and foreclosed loans; and
- (F) filing insurance claims on foreclosed property.

(30) "State low income housing plan" means the comprehensive and integrated plan for the state assessment of housing needs and allocation of housing resources.

SECTION 6. Section 2306.007(a), Government Code, is amended to read as follows:

(a) To establish an economically depressed or blighted area under Section 2306.004(6)(B) [~~2306.004(5)(B)~~] or (C), the governing body of a municipality must hold a public hearing and find that the area:

- (1) substantially impairs or arrests the sound growth of the municipality; or
- (2) is an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use.

SECTION 7. Section 2306.021(b), Government Code, is amended to read as follows:

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

SECTION 8. Section 2306.032(b), Government Code, is amended to read as follows:

(b) The board shall keep complete minutes of board meetings. The accounts, minutes, and other records shall be maintained by [~~kept at the principal office of~~] the department.

SECTION 9. Section 2306.033, Government Code, is amended by amending Subsection (a) to read as follows:

- (a) It is a ground for removal from the board that a member:
 - (1) does not have at the time of appointment the qualifications required by Section 2306.026, 2306.027, or 2306.028 for appointment to the board;
 - (2) does not maintain during the service on the board the qualifications required by Section 2306.026, 2306.027, or 2306.028 for appointment to the board;
 - (3) violates a prohibition established by Section 2306.034 or 2306.035;
 - (4) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; [~~or~~]
 - (5) is absent from more than half of the regularly scheduled meetings

of the board that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the board; or

(6) engages in misconduct or unethical or criminal behavior.

SECTION 10. Subchapter B, Chapter 2306, Government Code, is amended by adding Section 2306.039 to read as follows:

Sec. 2306.039. OPEN MEETINGS AND OPEN RECORDS. (a) Except as provided by Subsection (b), the department and the Texas State Affordable Housing Corporation are subject to Chapters 551 and 552.

(b) This section does not apply to the personal financial information submitted by an individual or family for a loan, grant, or other housing assistance under a program administered by the department or the Texas State Affordable Housing Corporation or from bonds issued by the department, except that the department and the corporation are permitted to disclose information about any applicant in a form that does not reveal the identity of the individual or family for purposes of determining eligibility for programs and in preparing reports required under this chapter.

SECTION 11. Section 2306.053(b), Government Code, is amended to read as follows:

(b) The department may:

- (1) sue and be sued, or plead and be impleaded;
- (2) act for and on behalf of this state;
- (3) adopt an official seal or alter it;
- (4) adopt and enforce bylaws and rules;
- (5) contract with the federal government, state, any public agency, mortgage lender, person, or other entity;
- (6) designate mortgage lenders to act for the department for the origination, processing, and servicing of the department's mortgage loans under conditions agreed to by the parties;
- (7) provide, contract, or arrange for consolidated processing of a housing development to avoid duplication;
- (8) encourage homeless individuals and individuals of low or very low income to attend the department's educational programs and assist those individuals in attending the programs;
- (9) appoint and determine the qualifications, duties, and tenure of its agents, counselors, and professional advisors, including accountants, appraisers, architects, engineers, financial consultants, housing construction and financing experts, and real estate consultants;
- (10) administer federal housing, community affairs, or community development programs, including the low income housing tax credit program;
- (11) establish eligibility criteria for individuals and families of low, very low, and families of moderate income to participate in and benefit from programs administered by the department;
- (12) execute funding agreements;
- (13) obtain, retain, and disseminate records and other documents in electronic form; and
- (14) ~~(12)~~ do all things necessary, convenient, or desirable to carry out the powers expressly granted or necessarily implied by this chapter.

SECTION 12. Subchapter D, Chapter 2306, Government Code, is amended by adding Section 2306.0661 to read as follows:

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

(b) The department shall encourage informed and effective public participation in the department's programs and plans through holding public hearings and soliciting and accepting public comments during those hearings. In holding a public hearing, the department shall ensure that:

(1) the location of the hearing is:

(A) in a public building or facility accessible to the public;

(B) accessible to persons with disabilities; and

(C) reasonably accessible by public transportation, if

available;

(2) hearings are scheduled at times when working and nonworking people can attend; and

(3) child care is provided where practical.

(c) In scheduling a public hearing, the department shall:

(1) publish notice of the time, place, and subject of the hearing in the Texas Register and a newspaper of general circulation in the community in which the hearing is to be held at least seven days before the date of the hearing. Whenever practical, the department shall publish notice of the time, place, and subject of the hearing in the Texas Register and a newspaper of general circulation in the community in which the hearing is to be held at least thirty days before the date of the hearing;

(2) provide notice of the hearing to each public library, in the community in which the hearing is to be held, for posting in a public area of the library;

(3) provide notice of the hearing to:

(A) each member of the board;

(B) each member of the advisory committee consulted by the department during preparation of the state low income housing plan; and

(C) each member of the legislature;

(4) make a reasonable effort to inform interested persons and organizations of the hearing;

(5) make information about the hearing, including, if appropriate, the qualified allocation plan, application forms for a low income housing tax credit, and the state low income housing plan, available on the Internet in accordance with Section 2306.077; and

(6) provide an opportunity for persons to transmit on the Internet written testimony or comments on a subject of a hearing in accordance with rules adopted by the board.

SECTION 13. Section 2306.072, Government Code, is amended to read as follows:

Sec. 2306.072. ANNUAL LOW INCOME HOUSING REPORT. (a) Not later than March 1 [~~the 100th day after the last day~~] of each [~~the fiscal~~] year, the director shall prepare and submit to the board an annual report of the department's housing activities for the preceding [~~fiscal~~] year.

(b) Not later than the 30th day after the date the board receives the report, the board shall submit the report to the governor, lieutenant governor, speaker of the house of representatives, and members of any legislative oversight committee ~~[legislature]~~.

(c) The report must include:

(1) a complete operating and financial statement of the department;
 (2) a comprehensive statement of the activities of the department during the preceding ~~[fiscal]~~ year to address the needs identified in the state low income housing plan prepared as required by Section 2306.0721, including:

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

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

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

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

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

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

(6) an analysis of fair housing opportunities in each housing development that receives financial assistance from the department that includes the following information for each housing development that contains 20 or more living units:

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

(B) the total number of units reported by bedroom size;

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

(D) a statistical analysis of average rents reported by county ~~[region, as defined in the comprehensive housing affordability strategy]~~;

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

(F) the number of units occupied by individuals receiving government-supported housing assistance as reported by each housing sponsor;

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

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

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

(d) The annual report submitted in each even-numbered year must:

(1) include recommendations designed to strengthen and support the Neighborhood Partnership Program in providing home ownership opportunities to individuals and families of low and very low income; and

(2) describe in detail actions the department has taken to assist small municipalities and rural areas in obtaining matching funds from public and private sources for participation in the Neighborhood Partnership Program.

SECTION 14. Section 2306.0721, Government Code, is amended to read as follows:

Sec. 2306.0721. LOW INCOME HOUSING PLAN. (a) Not later than March 1 [~~the 100th day after the last day~~] of each [~~the fiscal~~] year, the director shall prepare and submit to the board an integrated state low income housing plan for the next year.

(b) Not later than the 30th day after the date the board receives the plan, the board shall submit the plan to the governor, lieutenant governor, and the speaker of the house of representatives [~~legislature~~].

(c) The plan must include:

(1) an estimate and analysis of the housing needs of the following populations in the state:

(A) individuals and families of moderate, low, and very low income;

(B) individuals with special needs; and

(C) homeless individuals;

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

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

(4) a description of state programs [~~rules and policies~~] that govern the use of all available housing resources;

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

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

(7) strategies to provide housing for individuals and families with special needs;

(8) a description of the department's efforts to encourage the construction of housing units that incorporate energy efficient construction and appliances; and

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

(d) The priorities and policies in another plan adopted by the department must be consistent to the extent practical with the priorities and policies established in the state low income housing plan.

(e) To the extent consistent with federal law, the preparation and publication of the state low income housing plan shall be consistent with the filing and publication deadlines required of the department for the consolidated plan.

SECTION 15. Section 2306.0722, Government Code, is amended to read as follows:

Sec. 2306.0722. PREPARATION OF PLAN AND REPORT. (a) Before preparing the annual low income housing report under Section 2306.072 and the state low income housing plan under Section 2306.0721, the department shall meet with representatives of groups with an interest in low income housing, nonprofit housing organizations, managers, owners, and developers of affordable housing, local government officials, and residents of low income housing. The department shall obtain the comments and suggestions of the representatives, officials, and residents about the prioritization and allocation of the department's resources in regard to housing.

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

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

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

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

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

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

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

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

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

(9) incorporate recommendations that are consistent with the consolidated plan [~~comprehensive housing affordability strategy and performance report~~] submitted annually by the state to the United States Department of Housing and Urban Development;

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

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

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

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

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

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

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

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

SECTION 16. Section 2306.0723, Government Code, is amended to read as follows:

Sec. 2306.0723. PUBLIC PARTICIPATION REQUIREMENTS [HEARINGS]. (a) The department shall hold [~~a~~] public hearings [~~hearing~~] on [~~the annual report and~~] the annual state low income housing plan and report before the director submits the report and the plan to the board. Public hearings shall be held in Dallas or Fort Worth, El Paso, Houston, San Antonio, the Lower Rio Grande Valley, and at least two additional municipalities selected by the department to represent geographically diverse communities. The department shall provide notice of the public hearings as required by Section 2306.0661. The published notice must include a summary of the report and plan. The department shall accept comments on the report and plan at the public hearings and for at least 30 days after the date of the publication of the notice of the hearings.

(b) In addition to any other necessary topics relating to the report and the plan, each public hearing required by Subsection (a) must address:

(1) infrastructure needs;

(2) home ownership programs;

(3) rental housing programs;

(4) housing repair programs; and

(5) the concerns of individuals with special needs, as defined by Section 2306.511.

(c) The board shall hold a public hearing on the state low income housing report and plan before the board submits the report and the plan to the governor, lieutenant governor, speaker of the house of representatives, and members of the legislature.

(d) [~~e~~] The board shall include with the report and the plan the board submits to the governor, lieutenant governor, speaker of the house of representatives, members of the [~~and~~] legislature, and members of the advisory board formed by the department to advise on the consolidated plan a written summary [~~report~~] of public comments on the report and the plan.

SECTION 17. Section 2306.076(a), Government Code, is amended to read as follows:

(a) The board may purchase from department funds liability insurance for the director, ~~[and] board members, [and] officers, and employees of the department.~~

SECTION 18. Subchapter D, Chapter 2306, Government Code, is amended by adding Section 2306.077 to read as follows:

Sec. 2306.077. INTERNET AVAILABILITY. (a) In this section, "Internet" means the largest, nonproprietary, nonprofit, cooperative, public computer network, popularly known as the Internet.

(b) The department, to the extent it considers it to be feasible and appropriate, shall make information on the department's programs, public hearings, and scheduled public meetings available to the public on the Internet.

(c) The access to information allowed by this section is in addition to the public's free access to the information through other electronic or print distribution of the information and does not alter, diminish, or relinquish any copyright or other proprietary interest or entitlement of this state or a private entity under contract with this state.

SECTION 19. The heading of Subchapter E, Chapter 2306, Government Code, is amended to read as follows:

SUBCHAPTER E. COMMUNITY AFFAIRS AND COMMUNITY DEVELOPMENT PROGRAMS

SECTION 20. Subchapter E, Chapter 2306, Government Code, is amended by adding Section 2306.094 to read as follows:

Sec. 2306.094. SERVICES FOR THE HOMELESS. The department shall administer the state's allocation of federal funds provided under the Emergency Shelter Grants Program (42 U.S.C. Section 11371 et seq.), as amended, or its successor program, and any other federal funds provided for the benefit of homeless individuals and families.

SECTION 21. Section 2306.097, Government Code, is amended to read as follows:

Sec. 2306.097. ENERGY SERVICES PROGRAM FOR LOW-INCOME INDIVIDUALS. [(a)] The Energy Services Program for Low-Income Individuals [is in the community affairs division.

[(b) The program] shall operate in conjunction with the community services block grant program and has jurisdiction and responsibility for administration of the following elements of the State Low-Income Energy Assistance Program, from whatever sources funded:

- (1) the Energy Crisis Intervention Program;
- (2) the weatherization program; and
- (3) the Low-Income Home Energy Assistance Program.

SECTION 22. Section 2306.099, Government Code, is amended to read as follows:

Sec. 2306.099. TRANSFER OF FEDERAL FUNDS. (a) The department may enter into an interagency agreement with the Texas Department of Commerce to reimburse the Texas Department of Commerce for providing on behalf of the department marketing, [and] underwriting, and any other services on the portion of the federal community development block grant funds allocated by the department for economic development activities.

(b) The department shall allocate not more than 20 percent of the federal funds received by the department to the Texas Department of Commerce to be used for economic development activities.

(c) The activities undertaken by the Texas Department of Commerce under this section must be monitored [~~approved~~] by the department.

SECTION 23. Section 2306.111, Government Code, is amended to read as follows:

Sec. 2306.111. HOUSING FUNDS. (a) The department, through the housing finance [~~any~~] division, shall administer all [~~the~~] federal housing funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12704 et seq.) or any other affordable housing program.

(b) The housing finance division shall adopt a goal to apply an aggregate [~~a~~] minimum of 25 percent of the division's total housing funds toward housing assistance for individuals and families of extremely low and very low income.

(c) In administering federal housing funds provided to the state under the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. Section 12701 et seq.), the department shall give the highest priority to utilizing these funds for the benefit of non-participating small cities and rural areas that do not qualify to receive funds under the Cranston-Gonzalez National Affordable Housing Act directly from the United States Department of Housing and Urban Development unless the department finds there is insufficient need and demand for housing funds within these areas.

SECTION 24. Section 2306.142, Government Code, is amended to read as follows:

Sec. 2306.142. AUTHORIZATION OF BONDS. In its discretion, the board shall authorize all bonds issued by the department [~~housing finance division~~].

SECTION 25. Section 2306.147, Government Code, is amended to read as follows:

Sec. 2306.147. FEES AND PENALTIES. (a) The board shall have the specific duty and power to establish a schedule of fees and penalties relating to the operation of the housing finance division and authorized by this chapter, including application, processing, loan commitment, origination, servicing, and administrative fees.

(b) The department shall waive grant application fees for nonprofit organizations that offer expanded services such as child care, nutrition programs, job training assistance, health services, or human services.

SECTION 26. Section 2306.171, Government Code, is amended to read as follows:

Sec. 2306.171. GENERAL DUTIES OF DEPARTMENT RELATING TO PURPOSES OF HOUSING FINANCE DIVISION. The department shall:

(1) develop policies and programs designed to increase the number of individuals and families of extremely low, [and] very low, and low income and families of moderate income that participate in the housing finance division's programs;

(2) work with municipalities, counties, public agencies, housing sponsors, and nonprofit and for profit corporations to provide:

(A) information on division programs; and

(B) technical assistance to municipalities, counties, and nonprofit corporations;

(3) encourage private for profit and nonprofit corporations and state organizations to match the division's funds to assist in providing affordable housing to individuals and families of low and very low income and families of moderate income;

(4) provide matching funds to municipalities, counties, public agencies, housing sponsors, and nonprofit developers who qualify under the division's programs; and

(5) administer the state's allocation of federal funds provided under the rental rehabilitation grant program authorized by Section 17, Title I, of the United States Housing Act of 1937 (42 U.S.C. Section 1437o).

SECTION 27. Section 2306.177, Government Code, is amended to read as follows:

Sec. 2306.177. HEARINGS. The department may:

(1) conduct hearings; and

(2) take testimony and proof, under oath, at public hearings, on matters necessary to carry out the department's [~~housing finance division's~~] purposes.

SECTION 28. Subchapter H, Chapter 2306, Government Code, is amended by adding Section 2306.184 to read as follows:

Sec. 2306.184. DISCLOSURE OF FEES. (a) This section does not apply to an application submitted by an individual or family for a loan, grant, or other assistance under a program administered by the department or the Texas State Affordable Housing Corporation or from bonds issued by the department.

(b) An application for a loan, grant, or other assistance for an eligible affordable housing project or activity under a program administered by the department or the Texas State Affordable Housing Corporation or from bonds issued by the department must include:

(1) the name of each person expected to charge the applicant a project development fee or project operation fee;

(2) the nature and amount of each project development fee and project operation fee the applicant is expected to pay; and

(3) any interlocking interests of persons listed under Subdivision (1).

(c) On completion of the project, the applicant shall cost certify the project and include the following:

(1) the name of each person to whom the recipient paid a project development fee or project operation fee during the term of the project;

(2) the nature and amount of each project development fee and project operation fee paid by the recipient during the term of the project; and

(3) any interlocking interests of persons listed under Subdivision (1).

(d) The department shall adopt rules governing penalties and sanctions under this section for a person who:

(1) does not provide the information required by this section; or

(2) knowingly discloses false information.

(e) In this section:

(1) "Project development fee" means a fee charged in connection with the planning, design, or development of an affordable housing project, including an application fee, tax credit consulting fee, development consulting fee, mortgage brokerage fee, and financial advising fee.

(2) "Project operation fee" means a fee charged in connection with the operation, construction, management, or administration of an affordable housing

project, including a management fee, asset management fee, incentive management fee, general partner fee, construction supervision fee, and construction management fee.

SECTION 29. Section 2306.201(b), Government Code, is amended to read as follows:

- (b) The fund consists of:
- (1) appropriations or transfers made to the fund;
 - (2) unencumbered fund balances; [~~and~~]
 - (3) public or private gifts or grants;
 - (4) investment income; and
 - (5) funds from any other source.

SECTION 30. Section 2306.202, Government Code, is amended to read as follows:

Sec. 2306.202. USE OF HOUSING TRUST FUND. (a) The department, through the housing finance division, shall use the housing trust fund to provide loans, grants, or other comparable forms of assistance to local units of government, public housing authorities, nonprofit organizations, and income-eligible individuals, families, and households to finance, acquire, rehabilitate, and develop decent, safe, and sanitary housing. In each biennium the first \$2.6 million available through the housing trust fund for loans, grants, or other comparable forms of assistance shall be set aside and made available exclusively for local units of government, public housing authorities, and nonprofit organizations. Any additional funds may also be made available to for-profit organizations so long as at least 45 percent of available funds in excess of the first \$2.6 million shall be made available to nonprofit organizations for the purpose of acquiring, rehabilitating, and developing decent, safe, and sanitary housing. The remaining portion shall be competed for by nonprofit organizations, for-profit organizations, and other eligible entities. Notwithstanding any other section of this chapter, but subject to the limitations in Section 2306.251(c), the department may also use the fund to acquire property to endow the fund.

- (b) Use of the fund is limited to providing:
- (1) assistance for individuals and families of low and very low income; [~~and~~]
 - (2) technical assistance and capacity building to nonprofit organizations engaged in developing housing for individuals and families of low and very low income; and
 - (3) security for repayment of revenue bonds issued to finance housing for individuals and families of low and very low income.

SECTION 31. Section 2306.205, Government Code, is amended by adding Subsection (f) to read as follows:

(f) In addition to the money transferred into the housing trust fund under this section, and subject to Subsection (e), the department shall transfer into the fund the amount of any origination fee, asset oversight fee, and servicing fee the department or the Texas State Affordable Housing Corporation receives in relation to the administration of its 501(c)(3) bond program established pursuant to Section 2306.358 that exceeds the amount needed by the department or the Texas State Affordable Housing Corporation to pay its operating and overhead

costs and fund reserves, including an insurance reserve or credit enhancement reserve established by the board in administering the program.

SECTION 32. Section 2306.207(a), Government Code, is amended to read as follows:

(a) The department [housing finance division] may create a reserve fund with the comptroller [state treasurer] out of:

- (1) proceeds from the sale of the department's [division's] bonds; or
- (2) other resources.

SECTION 33. Section 2306.232, Government Code, is amended to read as follows:

Sec. 2306.232. TEXAS HOUSING AGENCY LOAN OR GUARANTEE. A loan or guarantee made by the Texas Housing Agency becomes a loan or guarantee of the department [housing finance division].

SECTION 34. Section 2306.251, Government Code, is amended as follows:

Sec. 2306.251. PROPERTY OWNERSHIP PROGRAM. (a) While it is not the intent of the legislature that the department compete with the private sector by becoming a long-term owner of real property merely for the purpose of owning, managing, and operating tenant properties, the [The] department may acquire, [and] own, reconstruct, rehabilitate, manage, or operate real property;

- (1) on an interim basis for sale or rental to:

(A) [(+)] individuals and families of low and very low income and families of moderate income; and

(B) [(2)] nonprofit housing organizations and other housing organizations to serve the needs of individuals and families of low and very low income and families of moderate income;

- (2) for a period of time not to exceed 10 years for the purposes of:

(A) preserving publicly financed or subsidized housing; or

(B) participating in a risk-sharing program entered into with the United States Department of Housing and Urban Development, any other insurer or guarantor of any United States Department of Housing and Urban Development-related indebtedness, a government sponsored enterprise, a housing finance agency or corporation, or a public housing authority.

(b) [Property acquired by the department must qualify for home mortgage insurance after rehabilitation.

[(c)] The department may use money from the housing trust fund, unencumbered fund balances, fees received by the housing finance division, proceeds from the sale or rental of real property, distribution of earnings under Section 2306.557, or appropriations, allocations, grants, or gifts from any public or private source to purchase property under this section.

(c) If the department uses the housing trust fund to finance real property acquisitions, it [(d) The housing finance division] may not use more than 10 percent of the yearly balance of the [housing trust] fund to acquire the real property.

(d) [(e)] If the department acquires property under this section, the department shall submit an annual report to the board that includes an analysis of [have an independent audit conducted annually to analyze] the property ownership program's:

(1) financial stability;
(2) cost-effectiveness; and
(3) effectiveness in serving individuals and families of low and very low income and families of moderate income.

SECTION 35. Section 2306.252, Government Code, is amended to read as follows:

Sec. 2306.252. [~~LOW AND VERY LOW INCOME~~] HOUSING RESOURCE CENTER. (a) The board shall establish a [~~low and very low income~~] housing resource center in the housing finance division.

(b) The center shall:

(1) provide educational material to housing advocates, housing sponsors, borrowers, and tenants;
(2) provide technical assistance to nonprofit housing sponsors; and
(3) [~~focus on marketing loans and other programs of the housing finance division to individuals and families of low and very low income; and~~
~~(4)~~ assist [tenders] in the development of housing policy, including the annual state low income housing plan and report and the consolidated plan [marketing loans to individuals and families of low and very low income].

(c) The housing resource center is intended to assist individuals, local organizations, and local governments in providing for the housing needs of individuals and families in their communities by providing information available to the center to housing contractors, nonprofit housing sponsors, community-based organizations, and local governments on:

(1) local housing needs;
(2) housing programs;
(3) available funding sources; and
(4) programs that affect the creation, improvement, or preservation of housing affordable to individuals and families of low and very low income.

SECTION 36. Subchapter K, Chapter 2306, Government Code, is amended by adding Sections 2306.253 and 2306.254 to read as follows:

Sec. 2306.253. HOMEBUYER EDUCATION PROGRAM. (a) The department shall develop and implement a statewide homebuyer education program designed to provide information and counseling to prospective homebuyers about the home buying process.

(b) The department shall develop the program in cooperation with the Texas Agricultural Extension Service, the Texas Department of Human Services, the Real Estate Research Center at Texas A&M University, the Texas Workforce Commission, experienced homebuyer education providers, community-based organizations, and advocates of affordable housing. The department shall implement the program through self-help centers when feasible.

(c) The department shall make full use of existing training and informational materials available from sources such as the United States Department of Housing and Urban Development, the cooperative extension system, the Neighborhood Reinvestment Corporation, and existing homebuyer education providers.

(d) In order to implement this section, the department may use money available to the department for housing purposes that the department is not prohibited from spending on the homebuyer education program, including:

(1) the amount of administrative or service fees the department receives from the issuance or refunding of bonds that exceeds the amount the department needs to pay its overhead costs in administering its bond programs; and

(2) money the department receives from other entities by gift or grant under a contract.

Sec. 2306.254. TENANT SERVICES PROGRAM. (a) In this section, "tenant services" means social services, including child care, transportation, and basic adult education, that are provided to individuals residing in low income housing under Title IV-A, Social Security Act (42 U.S.C. Section 601 et seq.), and other similar services.

(b) The department shall structure the requirements for the provision of tenant services so that tenant services provided through housing programs are coordinated with similar services provided through state workforce development and welfare programs. The department shall emphasize tenant services that are eligible for additional federal matching funds through workforce development or welfare-related programs.

(c) The department shall designate a department employee as the tenant services program coordinator. The coordinator shall serve as a liaison to the Texas Workforce Commission, the Texas Department of Human Services, the Department of Protective and Regulatory Services, and the Legislative Budget Board on matters relating to the coordination of tenant services programs.

(d) The coordinator shall meet in Austin at least quarterly with representatives of the Texas Workforce Commission, the Texas Department of Human Services, the Department of Protective and Regulatory Services, and the Legislative Budget Board to:

(1) update coordination of tenant services with workforce development and welfare-related programs;

(2) discuss funding sources for tenant services programs; and

(3) report on the status of tenant services programs, including reporting on the number of clients and types of services offered.

(e) Not later than December 1 preceding a regular session of the legislature, the department shall file with the appropriate state agencies and legislative committees a report discussing the results of the department's program under this section.

SECTION 37. Section 2306.267, Government Code, is amended to read as follows:

Sec. 2306.267. COMPLIANCE WITH APPLICABLE LAWS, RULES, AND CONTRACT TERMS. The department may order a housing sponsor to perform or refrain from performing certain acts in order to comply with the law, department [~~housing finance division~~] rules, or terms of a contract or agreement to which the housing sponsor is a party.

SECTION 38. Section 2306.270, Government Code, is amended to read as follows:

Sec. 2306.270. REGULATION OF RETIREMENT OF CAPITAL INVESTMENT OR REDEMPTION OF STOCK. The department shall regulate the retirement of a capital investment or the redemption of stock of a limited profit housing sponsor if the retirement or redemption, when added to

a dividend or other distribution, exceeds in any one fiscal year the permitted percentage, as allowed by the department [~~housing finance division's rules~~], of the original face amount of the limited profit housing sponsor's investment or equity in a housing development.

SECTION 39. Section 2306.291(a), Government Code, is amended to read as follows:

(a) The department may purchase and take assignments from mortgage lenders or the federal government of notes and other obligations, including contracts for deed and mortgages, evidencing loans or interest in loans for the construction, remodeling, improvement, [or] rehabilitation, purchase, leasing, or refinancing of housing developments for individuals and families of low and very low income and families of moderate income.

SECTION 40. Section 2306.351(a), Government Code, is amended to read as follows:

(a) The department may issue bonds under this chapter, including qualified 501(c)(3) bonds under Section 145, Internal Revenue Code of 1986 (26 U.S.C. Section 145), and may:

- (1) provide for and secure payment of the bonds;
- (2) provide for the rights of the holders of the bonds, as permitted by this chapter and the Texas Constitution; and
- (3) purchase, hold, cancel, resell, or otherwise dispose of its bonds, subject to restrictions in a resolution authorizing issuance of its bonds.

SECTION 41. Section 2306.357, Government Code, is amended to read as follows:

Sec. 2306.357. BONDS ISSUED BY TEXAS HOUSING AGENCY. A general obligation or revenue bond issued by the Texas Housing Agency becomes a general obligation or revenue bond of the department [~~housing finance division~~].

SECTION 42. Subchapter P, Chapter 2306, Government Code, is amended by adding Section 2306.358 to read as follows:

Sec. 2306.358. ISSUANCE OF QUALIFIED 501(c)(3) BONDS. (a) Of the total qualified 501(c)(3) bonds issued under Section 145 of the Internal Revenue Code of 1986 (26 U.S.C. Section 145) in each fiscal year, it is the express intent of the legislature that the department shall allocate qualified 501(c)(3) bonding authority as follows:

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

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

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

(a-1) For the purposes of Subsection (a):

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

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

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

(c) In addition to the requirements of Section 145 of the Internal Revenue Code of 1986 (26 U.S.C. Section 145), a qualified 501(c)(3) organization must:

(1) demonstrate to the department that the project is carefully and conservatively underwritten to:

(A) ensure that the project is well run, well maintained, and financially viable; and

(B) minimize the risk of the organization's default;

(2) ensure that at least 60 percent of the housing to be provided under the project is affordable housing provided to individuals and families of low and very low income and:

(A) at least 40 percent of the units in a multifamily development are affordable to individuals and families with incomes at or below 60 percent of the median family income, adjusted for family size; or

(B) at least 20 percent of the units in a multifamily development are affordable to individuals and families with incomes at or below 50 percent of the median family income, adjusted for family size; and

(3) enter into an agreement with the department in which the 501(c)(3) organization:

(A) agrees during the term of the agreement to reserve at least 60 percent of the housing to be provided under the project for individuals and families of low and very low income;

(B) ensures that the reserved housing will remain affordable to individuals and families of low and very low income during the term of the agreement;

(C) agrees to not discriminate against a tenant applicant solely because the applicant receives public rental assistance payments, except if at least 15 percent of the housing units provided under the project are occupied by tenants who receive public rental assistance payments; and

(D) agrees to restrict the rents charged on those units reserved for individuals and families of low and very low income at 30 percent of the area median income adjusted for family size and utility allowance, unless this requirement is waived or modified on a case-by-case basis by the board, and approved by the Bond Review Board, if both boards determine that the waiver or modification is necessary for an area of the state because the area's median income would prevent the construction of new affordable projects.

(d) Subsection (c)(3)(C) does not prohibit an organization from requiring a tenant applicant who receives public assistance to meet the organization's standard criteria for occupancy, including such criteria as satisfactory creditworthiness and lack of criminal history.

(e) The agreement provided for in Subsection (c)(3) may provide for the lease or sale of the project to a nonprofit corporation approved by the department subject to the conditions specified in Subsection (c).

(f) Neither the department nor the Texas State Affordable Housing Corporation may use state or federal money to provide for credit enhancement of a bond issued under this section unless the credit enhancement would facilitate the issuance of bonds for the purpose of financing the creation or preservation of affordable housing by 501(c)(3) nonprofit entities.

(g) In lieu of complying with the set-aside requirements specified in Subsection (c)(2), a qualified 501(c)(3) organization may comply with such other set-asides or restrictions as are approved by the Internal Revenue Service as a basis for the determination letter addressed to the qualified 501(c)(3) organization.

(h) For purposes of this section, "rural area" and "metropolitan area" shall be defined through the memorandum of understanding provided for in Subsection (b) of this section.

SECTION 43. Section 2306.375, Government Code, is amended to read as follows:

Sec. 2306.375. PERSONAL LIABILITY OF BOARD MEMBER OR DIRECTOR. A member of the board or the director is not liable personally for bonds issued or contracts executed by the department or for any other action taken in accordance with the powers and duties authorized by this chapter [~~housing finance division~~].

SECTION 44. Section 2306.411(a), Government Code, is amended to read as follows:

(a) In addition to other security for the department's bonds authorized by this chapter, payment of the principal and interest and redemption premium, if any, on the department's bonds may be secured by a first or subordinate lien on and pledge of all or part of:

(1) the department's assets and real, personal, or mixed property, including:

(A) mortgages or other obligations securing the assets of property;

(B) investments; and

(C) trust agreements or trust indentures administered by one or more corporate trustees as allowed by the board; and

(2) the reserves or funds of the department [~~housing finance division~~].

SECTION 45. Section 2306.412(a), Government Code, is amended to read as follows:

(a) A lien on or pledge of revenues, income, assets, reserves, funds, or other resources of the department [~~housing finance division~~], as authorized by this chapter, is valid and binding from the time of payment for and delivery of the bonds authorized by the board resolution creating or confirming the lien or pledge.

SECTION 46. Section 2306.491, Government Code, is amended to read as follows:

Sec. 2306.491. BONDS NEGOTIABLE INSTRUMENTS. Notwithstanding any other statute, a bond and interest coupon issued and

delivered by the department [~~housing finance division~~] is a negotiable instrument under the Uniform Commercial Code, except that the bond may be registered or subject to registration under this chapter.

SECTION 47. Subchapter Y, Chapter 2306, Government Code, as added by Chapter 76, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

SUBCHAPTER Y. TEXAS STATE AFFORDABLE HOUSING CORPORATION

Sec. 2306.551. DEFINITION. In this subchapter, "corporation" means the Texas State Affordable Housing Corporation.

Sec. 2306.552. CREATION. (a) The existence of the Texas State Affordable Housing Corporation, or any similarly named corporation, begins on the date that the secretary of state issues the certificate of incorporation.

(b) The charter of the corporation must establish the corporation as nonprofit and specifically dedicate the corporation's activities to the public purpose authorized by this subchapter [~~benefit of the department~~].

(c) The creation of the corporation does not limit or impair the rights, powers, and duties of the department under this chapter.

Sec. 2306.553. PURPOSES. (a) The public purpose of the corporation is to perform activities and services that the corporation's board of directors determines will promote the public health, safety, and welfare through the provision of adequate, safe, and sanitary housing for individuals and families of low and very low income and families of moderate income. The activities and services shall include engaging in mortgage banking activities and lending transactions and acquiring, holding, selling, or leasing real or personal property [~~corporation shall carry out the public purposes of this chapter on behalf of the state~~].

(b) The corporation's primary public purpose is to facilitate the provision of housing and the making of affordable loans to individuals and families of low and very low income and families of moderate income. The corporation may make loans for single family homes only to individuals and families of low and very low income and families of moderate income. The corporation may make loans for multifamily developments if:

(1) at least 40 percent of the units in a multifamily development are affordable to individuals and families with incomes at or below 60 percent of the median family income, adjusted for family size; or

(2) at least 20 percent of the units in a multifamily development are affordable to individuals and families with incomes at or below 50 percent of the median family income, adjusted for family size [~~corporation may engage only in the performance of charitable functions~~].

(c) To the extent reasonably practicable, the corporation shall use the services of banks, community banks, savings banks, thrifts, savings and loan associations, private mortgage companies, nonprofit organizations, and other lenders for the origination of all loans contemplated by this subchapter and assist the lenders in providing credit to individuals and families of low and very low income and families of moderate income.

Sec. 2306.554. BOARD OF DIRECTORS AND OFFICERS. (a) The [~~members of the board serve as the~~] board of directors of the corporation consists of six members as follows:

(1) the presiding officer of the board of directors of the department;
(2) the presiding officer of the programs committee of the board of directors of the department; and

(3) four members of the board of directors of the corporation shall be appointed by the governor and shall represent any of the following areas:

(A) state or federal savings banks or savings and loan associations;

(B) community banks with assets of \$200 million or less;

(C) large metropolitan banks with assets of more than \$1 billion;

(D) asset management companies;

(E) mortgage servicing companies;

(F) builders;

(G) real estate developers;

(H) real estate brokers;

(I) community or economic development organizations;

(J) private mortgage companies;

(K) nonprofit housing development companies;

(L) attorneys;

(M) investment bankers;

(N) underwriters;

(O) private mortgage insurance companies;

(P) appraisers;

(Q) property management companies;

(R) financial advisors;

(S) nonprofit foundations;

(T) financial advisors; or

(U) any other area of expertise that the governor finds necessary for the successful operation of the corporation.

(b) The governor shall appoint a presiding officer from the members who are not also serving as members of the board of directors of the department.

(c) A member of the corporation's board of directors is not entitled to compensation, except for the members who are also members of the department's board of directors, but is entitled to reimbursement of travel expenses incurred by the member while conducting the business of the board, as provided by the General Appropriations Act.

(d) The director of the department shall serve ex officio as president of the corporation. The president is not entitled to compensation, unless the president is not also the executive director of the department, but is entitled to reimbursement from the corporation of travel expenses incurred by the member while conducting the business of the board, as provided by the General Appropriations Act. The director of the department shall serve as president of the corporation only if the director has experience in the field of mortgage banking or residential lending as demonstrated by:

(1) employment in one or more middle or upper level management positions for at least two years with a mortgage bank, commercial bank, thrift, savings and loan association, private mortgage company, mortgage servicing entity, or other financial institution; or

(2) employment in a position of providing legal or consulting services related to mortgage banking or residential lending to any one of the type of entities listed in Subsection (d)(1) for at least five years.

(e) If the director does not satisfy the requirements of Subsection (d)(1) or (2), the corporation shall employ, for compensation to be determined by the corporation's board of directors, an individual that satisfies the requirements of Subsection (d)(1) or (2) to serve as president of the corporation.

(f) The corporation may purchase, with corporation funds, liability insurance for each of the members of the corporation's board of directors, officers, and other employees of the corporation in an amount that the corporation's board of directors considers reasonably necessary to:

(1) insure against foreseeable liabilities; and

(2) provide for all costs of defending against those liabilities, including, without limitation, court costs and attorney's fees.

Sec. 2306.5545. CONFLICT OF INTEREST POLICIES. The board of directors of the corporation shall develop and implement policies relating to employee conflicts of interest that are substantially similar to comparable policies that govern state employees.

Sec. 2306.555. POWERS. (a) The corporation has the powers [~~and is subject to the limitations~~] provided for the department under this chapter.

(b) In addition to the powers granted by Subsection (a), the corporation has all rights and powers necessary to accomplish its public purpose, including the powers to:

(1) purchase, service, sell, lend on the security of, or otherwise transact in:

(A) mortgages, including federal mortgages and federally insured mortgages;

(B) mortgage loans;

(C) deeds of trust; and

(D) loans or other advances of credit secured by liens against manufactured housing;

(2) guarantee or insure timely payment of mortgage loans and loans or other advances of credit secured by liens against manufactured housing, provided that the corporation's liability on that guaranty or insurance is limited to the assets of a guaranty fund or self-insurance fund established and maintained by the corporation;

(3) make mortgage loans and loans or other advances of credit secured by liens against manufactured housing to individuals and families of low to moderate income;

(4) make mortgage loans to provide temporary or permanent financing or refinancing for housing or land developments, including refunding outstanding obligations, mortgages, or advances issued for those purposes;

(5) borrow, give security, pay interest or other return, or issue bonds or other obligations, including notes, debentures, or mortgage-backed securities, provided that each bond or other obligation issued by the corporation must contain a statement that the state is not obligated to pay the principal of or any premium or interest on the bond or other obligation and that the full faith and credit and the taxing power of the state are not pledged, given, or loaned to the payment;

(6) acquire, hold, invest, use, pledge, reserve, and dispose of its assets, revenues, income, receipts, funds, and money from every source and to select one or more depositories, inside or outside the state, subject to the terms of any resolution, indenture, or other contract under which any bonds or other obligations are issued or any guaranty or insurance is provided;

(7) establish, charge, and collect fees, charges, and penalties in connection with the programs, services, and activities of the corporation;

(8) procure insurance and pay premiums on insurance of any type, in amounts, and from insurers as the corporation's board of directors considers necessary and advisable to further the corporation's public purpose, including, subject to Section 2306.554(f), liability insurance for the members of the corporation's board of directors and the officers and other employees of the corporation;

(9) make, enter into, and enforce contracts, agreements, leases, indentures, mortgages, deeds, deeds of trust, security agreements, pledge agreements, credit agreements, and other instruments with any person, including a mortgage lender, servicer, housing sponsor, the federal government, or any public agency, on terms the corporation determines may be acceptable;

(10) own, rent, lease, or otherwise acquire, accept, or hold real, personal, or mixed property, or any interest in property, by purchase, exchange, gift, assignment, transfer, foreclosure, mortgage, sale, lease, or otherwise and hold, manage, operate, or improve real, personal, or mixed property, regardless of location;

(11) sell, lease, encumber, mortgage, exchange, donate, convey, or otherwise dispose of any or all of its properties or any interest in its properties, deeds of trust, or mortgage lien interest owned by it or under its control or custody, or in its possession, and release or relinquish any right, title, claim, lien, interest, easement, or demand, however acquired, including any equity or right of redemption in property foreclosed by it, by public or private sale, with or without public bidding;

(12) lease or rent any improvements, lands, or facilities from any person;

(13) request, accept, and use gifts, loans, donations, aid, guaranties, allocations, subsidies, grants, or contributions of any item of value to further its public purpose; and

(14) exercise [~~Except as specifically provided by this subchapter, the corporation has~~] the rights and powers of a nonprofit corporation incorporated under the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes).

(c) In exercising the foregoing powers granted to it under this chapter, the corporation shall not compete with private lenders and shall not originate or make any loan that can or would be made at the same time by a private lender on substantially the same or better terms within the submarket in which the loan is proposed to be made, and, to the extent practical, the corporation shall rely on private mortgage companies, banks, savings banks, thrifts, savings and loan associations, or other similar loan originating entities to originate loans. The corporation may act as co-originator in a loan where the funding resources emanate from the corporation.

(d) All of the mortgage banking operations shall be dedicated to the furtherance of facilitating affordable housing finance for the ultimate benefit of individuals and families of low and very low income and families of moderate income who, generally, are not afforded housing finance options through conventional lending channels.

(e) The corporation may contract with the department and with bond counsel, financial advisors, [or] underwriters, or other providers of professional or consulting services.

(f) The corporation shall pay its expenses from any available fund without resort to the general revenues of the state, except as specifically appropriated by the legislature.

(g) The department may not transfer any funds to the corporation to support the administration of the corporation or to subsidize its operations in any way. The department shall be fully compensated by the corporation for any property or employees that are shared by the corporation and the department, and it is the intent of the legislature that no employees be shared beyond the time at which such sharing is absolutely necessary. This subsection does not prohibit the corporation from receiving grants, loans, or other program funds of a kind that are available to other nonprofit corporations, or from using that portion of the program funds that are allowed for administration of the program for administrative purposes.

(h) Transfers of property from the department to the corporation shall be fully compensated.

Sec. 2306.5555. PUBLIC ACCESS. The board of directors of the corporation shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board of directors and to speak on any issue under the jurisdiction of the corporation.

Sec. 2306.556. [FAX] EXEMPT FROM TAXATION AND REGISTRATION. (a) The corporation is exempt from all taxation by the state or a political subdivision of the state, including a municipality.

(b) A bond or other obligation issued by the corporation is an exempt security under The Securities Act (Article 581-1 et seq., Vernon's Texas Civil Statutes), and unless specifically provided otherwise, under any subsequently enacted securities act. Any contract, guaranty, or other document executed in connection with the issuance of the bond or other obligation is not an exempt security under that Act, and unless specifically provided otherwise, under any subsequently enacted securities act.

Sec. 2306.557. DISTRIBUTION OF EARNINGS. Any part of earnings remaining after payment of expenses and any establishment of reserves by the corporation's board of directors may not inure to any person except that the corporation shall deposit these excess earnings with the department to the credit of the housing trust [general revenue] fund established by Section 2306.201 [for the benefit of the department] if the corporation's board of directors determines that sufficient provision has been made for the full payment of the expenses, bonds, and other obligations of the corporation and for any establishment of reserves by the corporation's board of directors.

Sec. 2306.558. ALTERATION AND TERMINATION. (a) Subject to this subchapter and the prohibition on the impairment of contracts in the law of this state, the corporation's board of directors by written resolution may alter the

structure, organization, programs, or activities of the corporation or terminate and dissolve the corporation.

(b) The corporation's board of directors shall dissolve the corporation if the board by resolution determines that:

(1) the purposes for which the corporation was formed have been substantially fulfilled; and

(2) all bonds and other obligations issued by the corporation and all guaranties and insurance and other contractual obligations have been fully paid or provision for that payment has been made.

(c) On dissolution, the title to funds and properties previously owned by the corporation shall be transferred to the department.

Sec. 2306.559. REPORTING REQUIREMENTS [~~ANNUAL REPORT~~].

(a) The corporation shall file an annual report of the financial activity of the corporation with the department. The corporation's board of directors shall submit the report to the governor, lieutenant governor, speaker of the house of representatives, comptroller, and Legislative Budget Board.

(b) The corporation shall file the report by the date established in the General Appropriations Act [~~before the 90th day after the last day of the corporation's fiscal year~~].

(c) The corporation shall prepare the report in accordance with generally accepted accounting principles.

(d) The report must include:

(1) a statement of support, revenue, and expenses and change in fund balances;

(2) a statement of functional expenses; and

(3) balance sheets for all funds.

(e) The corporation shall file quarterly performance reports with the department.

(f) Promptly on receipt, the corporation shall file with the Bond Review Board a report for the preceding fiscal year. The report must contain the status of all outstanding debts and obligations of the corporation, the status of collateral pledged as security for those debts and obligations, and a maturity and payment schedule for those debts and obligations.

Sec. 2306.560. AUDIT. (a) The corporation shall hire an independent certified public accountant to audit the corporation's books and accounts for each fiscal year. The corporation shall file a copy of the audit with the department and shall submit the audit report to the governor, lieutenant governor, speaker of the house of representatives, comptroller, Bond Review Board, State Auditor's Office, and Legislative Budget Board not later than the 30th day after the submission date established in the General Appropriations Act for the annual financial report.

(b) The corporation is subject to audit by the state auditor.

(c) The corporation shall submit budget and financial information to the legislative budget office as required by the director of the legislative budget office.

(d) All transfers of funds, personnel, or in-kind contributions from the department to the corporation must be reported to the Legislative Budget Board.

Sec. 2306.561. LIABILITY. (a) The directors, officers, and employees of the corporation are not personally liable for bonds or other obligations issued

or contracts, guaranties, or insurance executed by the corporation, or for any other action taken in accordance with the powers and duties authorized by this subchapter or in the good faith belief that that action was taken in accordance with the powers and duties authorized by this subchapter.

(b) The directors and officers of the corporation are immune from civil liability to the same extent that a volunteer who serves as an officer, director, or trustee of a charitable organization is immune from civil liability under Chapter 84, Civil Practice and Remedies Code.

(c) The civil liability of an employee of the corporation is limited to the same extent that the civil liability of an employee of a charitable organization is limited under Chapter 84, Civil Practice and Remedies Code.

(d) The limitations on liability contained in this section do not limit or impair the limitations on liability otherwise available to the corporation's directors, officers, and employees.

SECTION 48. Chapter 2306, Government Code, is amended by adding Subchapter AA to read as follows:

SUBCHAPTER AA. EMERGENCY NUTRITION
AND TEMPORARY EMERGENCY RELIEF PROGRAM

Sec. 2306.651. DEFINITIONS. In this subchapter:

(1) "Applicant" means the commissioners court of a county, the governing body of another political subdivision, or a nonprofit organization.

(2) "Nonprofit organization" means a private, nonprofit, tax-exempt corporation under Section 501(c)(3), Internal Revenue Code of 1986 (26 U.S.C. Section 501(c)(3)).

(3) "Program" means a system of providing temporary emergency relief to needy persons.

Sec. 2306.652. TEMPORARY EMERGENCY RELIEF PROGRAM. (a) The department shall establish a temporary emergency relief program to assist counties, in cooperation with other public entities and nonprofit organizations, in meeting the needs of individuals and families for temporary emergency relief.

(b) The department shall establish the emergency nutrition program as part of the temporary emergency relief program established under this subchapter to meet the unmet need for emergency food assistance. The department shall administer the emergency nutrition program in the same fashion and under the same procedures as govern the administration of the temporary emergency relief program.

Sec. 2306.653. APPLICATION. (a) A county may apply to the department for a grant-in-aid to establish and administer a program under this subchapter.

(b) If a county declines to act, the department may accept applications from other political subdivisions or from nonprofit organizations. The political subdivision or nonprofit organization must first notify the county judge of its intention to submit an application for a grant-in-aid.

(c) An application submitted under this section must provide evidence that a county requires assistance and that the applicant has consulted with public entities, nonprofit organizations, voluntary associations, representatives of low-income persons, and other groups involved in providing assistance to needy persons.

(d) The department shall adopt rules establishing the criteria for

determining whether an applicant qualifies under this subchapter. The department may approve only one program for each county.

(e) A decision by a county to administer a program under this subchapter remains in effect until the county notifies the department that the county no longer wants to participate in the program. If a county decides to discontinue its participation, the department may choose an applicant as an alternative participant as prescribed by Subsection (b) of this section and by department rules.

(f) The department shall develop standards and procedures for the program that permit all counties in the state to participate.

Sec. 2306.654. LOCAL ALLOCATION. (a) State funds provided to a local applicant under this subchapter may not be used for local administrative costs.

(b) An allocation to a county from the program established by Section 2306.652 shall be based on the county's demonstrated need for the money. The formula used by the department to allocate the money shall include:

(1) the number of unemployed persons in the county during the most recent 12-month period for which data is available compared to the number of unemployed people in the state during that same 12-month period; and

(2) the number of people at or below the poverty line in the county during the most recent 12-month period for which data is available compared to the number of people at or below the poverty line in the state during that same 12-month period.

Sec. 2306.655. LOCAL PLAN; DISBURSEMENT. (a) An applicant must submit to the department a plan for providing emergency relief.

(b) The plan must contain a description of the target population, the eligibility criteria for receipt of services, the nature and scope of benefits to be provided, methods of administration, and a budget.

(c) The plan must also show evidence of consultation with the entities listed in Section 2306.653(c).

(d) On certification by the department that the applicant qualifies under this subchapter, the department shall disburse money available for that purpose to the applicant to be used to establish a program in the affected county.

Sec. 2306.656. ELIGIBILITY FOR ASSISTANCE. (a) Each county, political subdivision, or nonprofit organization approved by the department for establishing a program shall establish its own criteria for persons eligible to receive benefits under the program and shall include the criteria in the plan for providing emergency relief submitted to the department.

(b) Before establishing eligibility and the frequency and duration of benefits provided under the program, the county, political subdivision, or nonprofit organization shall allow adequate notice and opportunity for public comment, including comments from entities listed in Section 2306.653(c).

(c) A county, political subdivision, or nonprofit organization may not set the eligibility level at less than 75 percent of the federal poverty level based on the federal Office of Management and Budget poverty index in effect at the time the plan is submitted to the department.

(d) Assistance to persons eligible to participate in a program authorized by this subchapter shall be provided through vouchers and purchased services in

accordance with the approved plan submitted to the department. The assistance may include the provision of utilities, food, housing, and clothing to needy persons.

(e) Records pertaining to a program under this subchapter are subject to audit by the department, an auditor approved by the department, or the state auditor.

Sec. 2306.657. REPORTS AND PUBLIC NOTICES. (a) As part of the annual report required by Section 2306.072, Government Code, the director shall include a written report describing and analyzing the operation of programs under this subchapter.

(b) A county, political subdivision, or nonprofit organization funded under this subchapter shall assure the department that information is provided to the public regarding eligibility for and the nature of a program operated under this subchapter.

Sec. 2306.658. RELATIONSHIP TO FEDERAL LAW. (a) If a federal law or regulation is changed without making a provision for temporary waivers to allow compliance with state law and, as a result of this change, there is insufficient time to comply with all the procedures required by this subchapter, the agency or entity affected may act so as to comply with federal law and shall comply with the applicable procedures required by this subchapter as soon as possible.

(b) If a federal statute or court order conflicts with this subchapter, the federal law or court order prevails over this subchapter.

SECTION 49. Chapter 2306, Government Code, is amended by adding Subchapter BB to read as follows:

SUBCHAPTER BB. LOW INCOME HOUSING TAX CREDIT PROGRAM

Sec. 2306.671. DEADLINES FOR ALLOCATION OF LOW INCOME HOUSING TAX CREDITS. (a) Not later than November 15 of each year, the department shall prepare and submit to the board for adoption the qualified allocation plan required by federal law for use by the department in setting criteria and priorities for the allocation of tax credits under the low income housing tax credit program.

(b) The board shall adopt and submit to the governor the qualified allocation plan not later than January 31.

(c) The governor shall approve, reject, or modify and approve the qualified allocation plan not later than February 28.

(d) An applicant for a low income housing tax credit to be issued a commitment during the initial allocation cycle in a calendar year must submit an application to the department not later than May 15.

(e) The board shall issue a commitment for allocation for the initial cycle of low income housing tax credits each year in accordance with the qualified allocation plan not later than July 31.

Sec. 2306.672. SCORING OF APPLICATIONS. (a) The goal of the low income housing tax credit program is to provide permanent affordable housing. In allocating low income housing tax credits, the department shall score each application using a point system based on criteria adopted by the department that are consistent with the department's housing goals. The department shall publish in the qualified allocation plan any discretionary factor that the department will consider in scoring an application.

(b) If an applicant meets the department's scoring and underwriting criteria, the department shall add:

(1) five bonus points to the applicant's score if the applicant agrees to provide to a qualified nonprofit organization or tenant organization a right of first refusal to purchase the property to which the tax credit applies at the minimum price provided in, and in accordance with the requirements of, Section 42(i)(7), Internal Revenue Code of 1986 (26 U.S.C. Section 42(i)(7)); and

(2) two bonus points to the applicant's score if the application is received within the first 10 days of the application acceptance period.

(c) The department shall provide the score of each application on each criterion to the board and the governor. The results of the scoring shall be available to the public.

(d) Upon awarding tax credit allocations, the board shall document the reasons for each project's selection, including an explanation of all discretionary factors used in making its determination.

Sec. 2306.673. SALE OF CERTAIN LOW INCOME HOUSING TAX CREDIT PROPERTY. (a) Not later than two years before the expiration of the compliance period, a recipient of a low income housing tax credit who agreed to provide a right of first refusal under Section 2306.672(b)(1) and who intends to sell the property shall notify the department of the recipient's intent to sell. The recipient shall notify qualified nonprofit organizations and tenant organizations of the opportunity to purchase the property.

(b) The recipient may:

(1) during the first six-month period after notifying the department, negotiate or enter into a purchase agreement only with a qualified nonprofit organization that is also a community housing development organization as defined by the federal home investment partnership program;

(2) during the second six-month period after notifying the department, negotiate or enter into a purchase agreement with any qualified nonprofit organization or tenant organization; and

(3) during the year before the expiration of the compliance period, negotiate or enter into a purchase agreement with the department or any qualified nonprofit organization or tenant organization approved by the department.

(c) Notwithstanding an agreement under Section 2306.672(b)(1), a recipient of a low income housing tax credit may sell property to which the tax credit applies to any purchaser after the expiration of the compliance period if a qualified nonprofit organization or tenant organization does not offer to purchase the property at the minimum price provided by Section 42(i)(7), Internal Revenue Code of 1986 (26 U.S.C. Section 42(i)(7)), and the department declines to purchase the property.

(d) In this section, "compliance period" has the meaning assigned by Section 42(i)(1), Internal Revenue Code of 1986 (26 U.S.C. Section 42(i)(1)).

Sec. 2306.674. DEPARTMENT PURCHASE OF LOW INCOME HOUSING TAX CREDIT PROPERTY. The board by rule may develop and implement a program to purchase low income housing tax credit property that is not purchased by a qualified nonprofit organization or tenant organization. The department may not purchase low income housing tax credit property if the board finds that the purchase is not in the best interest of the state.

Sec. 2306.675. ALLOCATION OF LOW INCOME HOUSING TAX CREDIT. (a) Department staff shall provide recommendations to the board concerning the financial or programmatic viability of each application for a low income housing tax credit before the board makes a decision relating to the allocation of tax credits.

(b) Not later than the deadline specified in Section 2306.671(e), the board shall issue a commitment for tax credits available to the department. Concurrently with the issuance of a commitment for initial tax credits, the board shall establish a waiting list of additional applications, ranked in descending order of priority, to be issued a commitment for tax credits if additional credits become available.

Sec. 2306.676. EQUAL ACCESS TO PROGRAM. The department shall establish procedures through the qualified allocation plan to ensure that each applicant for a low income housing tax credit has a fair and equal opportunity to submit or resubmit an application and submit for consideration any authorized supplementary materials and information.

Sec. 2306.677. FEES. (a) A fee charged by the department to an applicant for a low income housing tax credit may not be excessive and must reflect the department's actual costs in processing applications and providing copies of documents in connection with the allocation process.

(b) The department shall refund a fee charged to an applicant if the department does not score the applicant's application, except the department may retain a reasonable portion of the fee to compensate the department for costs associated with the application.

Sec. 2306.678. PUBLIC INFORMATION AND HEARINGS ON PROGRAM. (a) The department shall provide information regarding the low income housing tax credit program, including notices of public hearings, meetings, and opening and closing dates for applications for a low income housing tax credit, to local housing departments, newspapers, nonprofit organizations, on-site property managers of occupied projects that are the subject of tax credit applications for posting in prominent locations at those projects, and other interested persons and community groups, who request the information.

(b) The department shall hold at least three public hearings in different regions of the state to receive public comments on low income housing tax credit applications.

SECTION 50. Section 11.001, Human Resources Code, is amended to read as follows:

Sec. 11.001. DEFINITIONS. Except as provided by Section ~~[34.002 or]~~ 40.001, in this title:

- (1) "Board" means the Texas Board of Human Services.
- (2) "Department" means the Texas Department of Human Services.
- (3) "Commissioner" means the Commissioner of Human Services.
- (4) "Assistance" means all forms of assistance and services for needy persons authorized by Subtitle C.
- (5) "Financial assistance" means money payments for needy persons authorized by Chapter 31.
- (6) "Medical assistance" means assistance for needy persons authorized by Chapter 32.

SECTION 51. Section 373.005, Local Government Code, is amended by adding Subsection (d) to read as follows:

(d) A municipality may issue notes or other obligations guaranteed by the secretary of housing and urban development under Section 108, Housing and Community Development Act of 1974 (42 U.S.C. Section 5308), as amended, for the purpose of providing financing for those activities described in Section 108, Housing and Community Development Act (42 U.S.C. Section 5308), as amended, in furtherance of an approved community development program. The Section 108 guaranteed notes additionally may be secured by and made payable from the same sources as obligations issued under Subchapter C, Chapter 271, Local Government Code, subject to the notice provisions set forth therein. The Section 108 guaranteed notes or other obligations may be issued in such form, denominations, manner, terms, and conditions, bear interest at such rates, be interim or permanent notes or obligations, be subject to transfer, exchange, change, conversion, or replacement, and be sold in such manner, at such price, and under such terms, all as provided in the ordinance or resolution authorizing the issuance of such Section 108 guaranteed notes or obligations.

SECTION 52. Section 395.016, Local Government Code, is amended by adding Subsection (g) to read as follows:

(g) Notwithstanding Subsections (a)-(e) and Section 395.017, the political subdivision may reduce or waive an impact fee for any service unit that would qualify as affordable housing under 42 U.S.C. Section 12745, as amended, once the service unit is constructed. If affordable housing as defined by 42 U.S.C. Section 12745, as amended, is not constructed, the political subdivision may reverse its decision to waive or reduce the impact fee, and the political subdivision may assess an impact fee at any time during the development approval or building process or after the building process if an impact fee was not already assessed.

SECTION 53. Effective January 1, 1998, Subchapter B, Chapter 23, Tax Code, is amended by adding Section 23.21 to read as follows:

Sec. 23.21. PROPERTY USED TO PROVIDE AFFORDABLE HOUSING. In appraising real property that is rented or leased to a low-income individual or family meeting income-eligibility standards established by the owner of the property under regulations or restrictions limiting to a percentage of the individual's or the family's income the amount that the individual or family may be required to pay for the rental or lease of the property, the chief appraiser shall take into account the extent to which that use and limitation reduce the market value of the property.

SECTION 54. The following laws are repealed:

(1) Sections 2306.122, 2306.143, and 2306.513(e), Government Code; and

(2) Chapter 34, Human Resources Code.

SECTION 55. Section 395.016(g), Local Government Code, as added by this Act, applies to any assessed or unassessed impact fee that is not collected before the effective date of this Act. An impact fee that is collected before the effective date of this Act is governed by the law in effect on the day it was collected, and the former law is continued in effect for that purpose.

SECTION 56. The Texas Department of Housing and Community Affairs shall begin to implement Section 2306.253, Government Code, as added by this

Act, as soon as possible and shall fully implement the homebuyer education program with educational materials available in all counties not later than September 1, 1998.

SECTION 57. This Act takes effect September 1, 1997.

SECTION 58. The change in law made to Section 2306.053, Government Code, by this Act applies to a cause of action filed on or after the effective date of this Act. A cause of action filed before the effective date of this Act is governed by the law in existence when the cause of action was filed, and that law is continued in effect for that purpose.

SECTION 59. 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 Hill moved to adopt the conference committee report on **HB 2577**.

The motion prevailed.

HR 1353 - ADOPTED
(by Hawley)

The speaker laid before the house the following privileged resolution:

HR 1353

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 517** to consider and take action on the following matter:

House Rule 13, Section 9(a)(1), is suspended to permit the committee to provide for the applicability of the Act as follows:

SECTION 4. This Act becomes effective with the 1997-1998 school year.

Explanation: This change is necessary to provide for the applicability of the entire Act rather than for just one section of the Act.

HR 1353 was adopted without objection.

SB 517 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hawley submitted the conference committee report on **SB 517**.

Representative Hawley moved to adopt the conference committee report on **SB 517**.

A record vote was requested.

The motion prevailed by (Record 639): 142 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; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Garcia; Giddings; Glaze; Goodman;

Goolsby; Gray; Grusendorf; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hernandez; Hightower; Hilbert; Hilderbran; Hill; Hinojosa; Hirschi; 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; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; 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.

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

Absent, Excused — Corte; Gutierrez.

Absent — Greenberg; Hochberg; Merritt.

HB 583 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Maxey submitted the following conference committee report on **HB 583**:

Austin, Texas, May 31, 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 583** 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	Maxey
Bivins	Ehrhardt
West	Hernandez
Luna	Galloway
On the part of the Senate	On the part of the House

HB 583, A bill to be entitled An Act relating to public education.

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

SECTION 1. Subchapter B, Chapter 7, Education Code, is amended by adding Section 7.025 to read as follows:

Sec. 7.025. PARENTAL INVOLVEMENT DIVISION. (a) The agency shall develop, implement, and administer programs and activities to encourage and maintain parental involvement in public schools.

(b) The commissioner shall, to the greatest extent practicable, attempt to consolidate all agency programs and activities related to parental involvement to ensure greater and easier access by parents and to ensure greater efficiency of agency operations.

SECTION 2. Section 7.056(b), Education Code, is amended to read as follows:

(b) A school campus or district seeking a waiver must submit a written application to the commissioner not later than the 31st day before the campus or district intends to take action requiring a waiver. The application must include:

(1) a written plan approved by the board of trustees of the district that states the achievement objectives of the campus or district and the inhibition imposed on those objectives by the requirement, restriction, or prohibition; and

(2) written comments and the signature of the chairperson of [from] the appropriate campus- or district-level committee established under Section 11.251 evidencing review of the application by a majority of the members of the committee as follows:

(A) in the case of an application by a district, the chairperson of the district-level committee and of each campus-level committee whose campus is affected by the waiver must comment on and sign the application; and

(B) in the case of an application by a campus, the chairperson of the campus-level committee for that campus must comment on and sign the application.

SECTION 3. Subchapter A, Chapter 37, Education Code, is amended by adding Section 37.0031 to read as follows:

Sec. 37.0031. LIMITING ASSIGNMENT OF CERTAIN STUDENTS TO CLASS OF VICTIM. A student who has been adjudicated as having engaged in delinquent conduct as defined under Section 51.03, Family Code, that included violation of Section 21.11, 22.011, or 22.021, Penal Code, or who has been convicted of an offense under one of those sections, may not be assigned to the same class as the victim of that delinquent conduct or offense, as applicable, without the consent of the victim's parent or of the victim, if the victim is 18 years of age or older, unless the principal determines that such a placement is the only alternative. The victim's parent or the victim may appeal the principal's decision to the board of trustees of the district. The decision of the board is final and may not be appealed.

SECTION 4. Section 37.006, Education Code, is amended to read as follows:

Sec. 37.006. REMOVAL FOR CERTAIN CONDUCT. (a) Except as provided by Section 37.007(a)(3), a student shall be removed from class and placed in an alternative education program under [as provided by] Section 37.008 if the student [engages in conduct punishable as a felony, or] commits the following on school property or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:

(1) engages in conduct that contains the elements of the offense of assault under Section 22.01(a)(1), Penal Code, or terroristic threat under Section 22.07, Penal Code;

(2) sells, gives, or delivers to another person or possesses or uses or is under the influence of:

(A) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.; or
(B) a dangerous drug, as defined by Chapter 483, Health and Safety Code;

(3) sells, gives, or delivers to another person an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code, commits a serious act or offense while under the influence of alcohol, or possesses, uses, or is under the influence of an alcoholic beverage;

(4) engages in conduct that contains the elements of an offense relating to abusable glue or aerosol paint under Sections 485.031 through 485.035, Health and Safety Code, or relating to volatile chemicals under Chapter 484, Health and Safety Code; or

(5) engages in conduct that contains the elements of the offense of public lewdness under Section 21.07, Penal Code, or indecent exposure under Section 21.08, Penal Code.

(b) Except as provided by Section 37.007(c), a student shall be removed from class and placed in an alternative education program under Section 37.008 if the student engages in conduct that contains the elements of the offense of retaliation under Section 36.06, Penal Code, against any school employee.

(c) A student shall be removed from class and placed in an alternative education program under Section 37.008 if:

(1) the student receives deferred prosecution under Section 53.03, Family Code, for conduct defined as a felony offense under Title 5, Penal Code;

(2) a court or jury finds, under Section 54.03, Family Code, that the student has engaged in delinquent conduct on the basis of conduct defined as a felony offense under Title 5, Penal Code; or

(3) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in conduct defined as a felony offense under Title 5, Penal Code.

(d) A student may be removed from class and placed in an alternative education program under Section 37.008 if:

(1) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in conduct defined as a felony offense other than conduct defined as a felony offense under Title 5, Penal Code; and

(2) the continued presence of the student in the regular classroom threatens the safety of another student or a teacher or will be detrimental to the educational process.

(e) In determining whether there is a reasonable belief that a student has engaged in conduct defined as a felony offense other than conduct defined as a felony offense under Title 5, Penal Code, the superintendent or the superintendent's designee may consider all available information, including the information furnished under Article 15.27, Code of Criminal Procedure.

(f) The terms of a placement under this section must prohibit the student from attending or participating in a school-sponsored or school-related activity.

(g) On receipt of notice under Article 15.27(f), Code of Criminal Procedure, the superintendent or the superintendent's designee shall review the student's placement in the alternative education program. The student may not be returned to the regular classroom pending the review. The superintendent

or the superintendent's designee shall schedule a review of the student's placement with the student's parent or guardian not later than the third class day after the date the superintendent or superintendent's designee receives notice from the office or official designated by the court. After reviewing the notice and receiving information from the student's parent or guardian, the superintendent or the superintendent's designee may continue the student's placement in the alternative education program if there is reason to believe that the presence of the student in the regular classroom threatens the safety of another student or a teacher.

(h) The student or the student's parent or guardian may appeal the decision of the superintendent or the superintendent's designee under Subsection (g) to the board of trustees of the district. The student may not be returned to the regular classroom pending the appeal. The board of trustees shall, at the next scheduled meeting of the board, review the notice provided under Article 15.27(f), Code of Criminal Procedure, and receive information from the student, the student's parent or guardian, and the superintendent or superintendent's designee, and confirm or reverse the decision under Subsection (g). The board shall make a record of the proceedings. If the board confirms the decision of the superintendent or superintendent's designee, the board shall inform the student and the student's parent or guardian of the right to appeal to the commissioner under Subsection (i).

(i) Notwithstanding Section 7.057(e), the decision of the board of trustees under Subsection (h) may be appealed to the commissioner under Section 7.057. The student may be returned to the regular classroom pending the appeal.

SECTION 5. Section 39.052, Education Code, is amended by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b) The report card shall include the following information where applicable:

- (1) the academic excellence indicators adopted under Sections 39.051(b)(1) through (8);
- (2) student/teacher ratios; [~~and~~]
- (3) administrative and instructional costs per student;
- (4) the phone number of the agency's parental involvement division;

and

(5) the phone number at the agency to call for information concerning assessment instruments under Section 39.023.

(c) Phone numbers required under Subsections (b)(4) and (5) must be toll free to further encourage parental involvement.

(d) The commissioner shall adopt rules for requiring dissemination of appropriate student performance portions of campus report cards and the information required under Subsections (b)(4) and (5) annually to the parent, guardian, conservator, or other person having lawful control of each student at the campus. On written request, the school district shall provide a copy of a campus report card to any other party.

SECTION 6. Section 45.105(c), Education Code, is amended to read as follows:

(c) Local school funds from district taxes, tuition fees of students not entitled to a free education, [~~and~~] other local sources, and state funds not

designated for a specific purpose may be used for the purposes listed for state and county funds and for purchasing appliances and supplies, paying insurance premiums, paying janitors and other employees, buying school sites, and buying, building, repairing, and renting school buildings, including acquiring school buildings and sites by leasing through annual payments with an ultimate option to purchase, and [paying] for other purposes ~~[goods and services]~~ necessary in the conduct of the public schools determined by the board of trustees. The accounts and vouchers for county districts must be approved by the county superintendent. If the state available school fund in any municipality or district is sufficient to maintain the schools in any year for at least eight months and leave a surplus, the surplus may be spent for the purposes listed in this subsection.

SECTION 7. Article 15.27, Code of Criminal Procedure, is amended to read as follows:

Art. 15.27. NOTIFICATION TO SCHOOLS REQUIRED. (a) A law enforcement agency that arrests or refers to the office or official designated by the juvenile court ~~[takes into custody as provided by Chapter 52, Family Code,]~~ an individual who the agency ~~[knows or]~~ believes is enrolled as a student in a public primary or secondary school, for a felony ~~[an]~~ offense ~~[listed in Subsection (h) of this article]~~, shall attempt to ascertain whether the individual is enrolled. If the law enforcement agency ascertains that the individual is enrolled as a student in a public primary or secondary school, the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled ~~[or believed to be enrolled]~~ of that arrest or referral ~~[detention]~~ within 24 hours after the arrest or referral ~~[detention]~~, or on the next school day. If the law enforcement agency cannot ascertain whether the individual is enrolled as a student, the agency shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is believed to reside of that arrest or detention within 24 hours after the arrest or detention, or on the next school day. If the individual is a student, the ~~[The]~~ superintendent shall promptly notify all instructional and support personnel who are responsible for the supervision of ~~[have regular contact with]~~ the student. All personnel shall keep the information received in this subsection confidential. The State Board for Educator Certification may revoke or suspend the certification of personnel who intentionally violate this subsection. Within seven days after the date the oral notice is given, the law enforcement agency shall mail written notification, marked "PERSONAL and CONFIDENTIAL" on the mailing envelope, to the superintendent or the person designated by the superintendent. Both the oral and written notice must contain sufficient details of the arrest or referral and each act allegedly committed by the student to enable the superintendent or the superintendent's designee to determine whether there is a reasonable belief that the student has engaged in conduct defined as a felony offense under the Penal Code. The information contained in the notice may be considered by the superintendent or the superintendent's designee in making the determination. ~~[The written notification must have the following printed on its face in large, bold letters: "WARNING: The information contained in this notice is intended only to inform appropriate school personnel of an arrest or detention of a~~

~~student believed to be enrolled in this school. An arrest or detention should not be construed as proof that the student is guilty. Guilt is determined in a court of law. THE INFORMATION CONTAINED IN THIS NOTICE IS CONFIDENTIAL!"]~~

(b) On conviction or on an adjudication of delinquent conduct of an individual enrolled as a student in a public primary or secondary school, for a felony [an] offense [or for any conduct listed in Subsection (h) of this article], the office of the prosecuting attorney acting in the case shall orally notify the superintendent or a person designated by the superintendent in the school district in which the student is enrolled of the conviction or adjudication. Oral notification must be given within 24 hours of the time of the determination of guilt, or on the next school day. The superintendent shall promptly notify all instructional and support personnel who are responsible for the supervision of the student. Within seven days after the date the oral notice is given, the office of the prosecuting attorney shall mail written notice, which must contain a statement of the offense of which the individual is convicted or on which the adjudication is grounded.

(c) A parole or probation office having jurisdiction over a student described by Subsection (a), (b), or (d) [(e) of this article] who transfers from a school or is subsequently removed from a school and later returned to a school or school district other than the one the student was enrolled in when the arrest, referral to a juvenile court [detention], conviction, or adjudication occurred shall notify the new school officials of the arrest or referral [detention] in a manner similar to that provided for by Subsection (a) or (d)(1) [(e)(1) of this article], or of the conviction or delinquent adjudication in a manner similar to that provided for by Subsection (b) or (d)(2) [(e)(2) of this article]. The new school officials shall promptly notify all instructional and support personnel who are responsible for the supervision of the student.

~~(d) [The superintendent or a person designated by the superintendent in the school district may send to a school district employee having direct supervisory responsibility over the student the information contained in the confidential notice if the superintendent or the person designated by the superintendent determines that the school district employee needs the information for educational purposes or for the protection of the person informed or others:~~

~~[(e)](1) A law enforcement agency that arrests or refers to a juvenile court under Chapter 52, Family Code, [detains] an individual who [that] the law enforcement agency knows or believes is enrolled as a student in a private primary or secondary school shall make the oral and written notifications described by Subsection (a) ~~[of this article]~~ to the principal or a school employee designated by the principal of the school in which the student is enrolled.~~

(2) On conviction or an adjudication of delinquent conduct of an individual enrolled as a student in a private primary or secondary school, the office of prosecuting attorney shall make the oral and written notifications described by Subsection (b) ~~[of this article]~~ to the principal or a school employee designated by the principal of the school in which the student is enrolled.

(3) The principal of a private school in which the student is enrolled

or a school employee designated by the principal may send to a school employee having direct supervisory responsibility over the student the information contained in the confidential notice~~[-, for the same purposes as described by Subsection (d) of this article].~~

~~(e) [(f)]~~ A person who receives information under this article may not disclose the information except as specifically authorized by this article. A person who intentionally violates this article commits an offense. An offense under this subsection is a Class C misdemeanor.

~~(f)~~ The office of the prosecuting attorney or the office or official designated by the juvenile court shall within two working days after the action notify the school district that removed a student to an alternative education program under Sections 37.006 and 37.008, Education Code, if:

(1) prosecution of the student's case was refused for lack of prosecutorial merit or insufficient evidence and a formal proceeding, deferred adjudication, or deferred prosecution will not be initiated; or

(2) the court or a jury found the student not guilty or made a finding that the student did not engage in delinquent conduct or conduct indicating a need for supervision, and the case was dismissed with prejudice.

~~[(g)]~~ On receipt of a notice under this article, a school official may take the precautions necessary to prevent further violence in the school, on school property, or at school-sponsored or school-related activities on or off school property, but may not penalize a student solely because a notification is received about the student.

~~[(h)]~~ This article applies to:

~~(1) an offense listed in Section 8(c), Article 42.18, Code of Criminal Procedure; reckless conduct, as described by Section 22.05, Penal Code; or a terroristic threat, as described by Section 22.07, Penal Code;~~

~~(2) the unlawful use, sale, or possession of a controlled substance, drug paraphernalia, or marihuana, as defined by Chapter 481, Health and Safety Code;~~

~~(3) the unlawful possession of any of the weapons or devices listed in Sections 46.01(1)-(14) or (16), Penal Code; or a weapon listed as a prohibited weapon under Section 46.05, Penal Code; or~~

~~[(4) a criminal offense under Section 71.02, Penal Code.]~~

SECTION 8. The amendment to Sections 39.052(b) and (d), Education Code, by this Act, applies to campus report cards for the 1997-1998 school year and each school year thereafter.

SECTION 9. This Act takes effect September 1, 1997.

SECTION 10. 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 Maxey moved to adopt the conference committee report on **HB 583**.

The motion prevailed.

SB 360 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Stiles submitted the conference committee report on **SB 360**.

Representative Stiles moved to adopt the conference committee report on **SB 360**.

The motion prevailed.

SB 370 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Bosse submitted the conference committee report on **SB 370**.

Representative Bosse moved to adopt the conference committee report on **SB 370**.

The motion prevailed. (Finnell recorded voting yes)

SB 700 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Rhodes submitted the conference committee report on **SB 700**.

Representative Rhodes moved to adopt the conference committee report on **SB 700**.

A record vote was requested.

The motion was lost by (Record 640): 59 Yeas, 82 Nays, 1 Present, not voting.

Yeas — Alexander; Averitt; Bonnen; Brimer; Carter; Chisum; Christian; Clark; Counts; Crabb; Culberson; Delisi; Denny; Driver; Dunnam; Elkins; Finnell; Galloway; Glaze; Goodman; Grusendorf; Hamric; Hawley; Hightower; Hilbert; Hilderbran; Hill; Holzheuser; Howard; Hunter; Hupp; Isett; Jackson; Janek; Kamel; Keffer; Krusee; Kuempel; Lewis, R.; Madden; Marchant; McReynolds; Mowery; Nixon; Palmer; Rabuck; Rhodes; Roman; Seaman; Siebert; Smith; Solomons; Staples; Swinford; Talton; Turner, B.; West; Williams; Wohlgemuth.

Nays — Allen; Alvarado; Bailey; Berlanga; Bosse; Burnam; Chavez; Coleman; Cook; Craddick; Danburg; Davila; Davis; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Farrar; Flores; Gallego; Garcia; Giddings; Goolsby; Gray; Greenberg; Haggerty; Hartnett; Heflin; Hernandez; Hinojosa; Hirschi; Hochberg; Hodge; Horn; Jones, D.; Jones, J.; Junell; Keel; Kubiak; Lewis, G.; Longoria; Luna; Maxey; McCall; McClendon; Merritt; Moffat; Moreno; Naishtat; Oakley; Olivo; Patterson; Pickett; Pitts; Place; Price; Puente; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Sadler; Serna; Shields; Solis; Stiles; Telford; Thompson; Tillery; Torres; Turner, S.; Uher; Walker; Williamson; Wilson; Wise; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Gutierrez.

Absent — Cuellar; King; Oliveira; Smithee; Van de Putte.

STATEMENT OF VOTE

I was shown voting yes on Record No. 640. I intended to vote no.

Siebert

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).

HB 1550 - VOTE RECONSIDERED

Representative Goodman moved to reconsider the vote by which the house adopted the conference committee report on **HB 1550**.

The motion to reconsider prevailed.

Representative Goodman moved to adopt the conference committee report on **HB 1550**.

A record vote was requested.

The motion prevailed by (Record 641): 144 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; 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; 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; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; 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.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Gutierrez.

Absent — King; McClendon.

STATEMENTS OF VOTE

When Record No. 641 was taken, I was in the house but away from my desk. I would have voted yes.

King

When Record No. 641 was taken, my vote failed to register. I would have voted present, not voting.

McClendon

SB 1440 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Holzheuser submitted the conference committee report on **SB 1440**.

Representative Holzheuser moved to adopt the conference committee report on **SB 1440**.

The motion prevailed. (Finnell recorded voting present, not voting)

SB 1486 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Siebert submitted the conference committee report on **SB 1486**.

Representative Siebert moved to adopt the conference committee report on **SB 1486**.

The motion prevailed.

HR 1358 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1358**, suspending the limitations on the conferees for **SB 133**.

**HR 1352 - ADOPTED
(by Hochberg)**

The speaker laid before the house the following privileged resolution:

HR 1352

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 1873** to consider and take action on the following:

(1) House Rule 13, Section 9(a)(4), is suspended to permit the committee to amend Section 29.008(b), Education Code, to read as follows:

(b) Except as provided by Subsection (c), costs of an approved contract for residential placement may be paid from a combination of federal, state, and local funds. The local share of the total contract cost for each student is that portion of the local tax effort that exceeds the district's local fund assignment under Section 42.252, divided by the average daily attendance in the district. If the contract involves a private facility, the state share of the total contract cost is that amount remaining after subtracting the local share. If the contract involves a public facility, the state share is that amount remaining after subtracting the local share from the portion of the contract that involves the costs of instructional and related services. For purposes of this subsection, "local tax effort" means the total amount of money generated by taxes imposed

for debt service and maintenance and operation less any amounts paid into a tax increment fund under Chapter 311, Tax Code.

Explanation: This change is necessary to remove taxes paid by a school district into a tax increment fund from the computation of the district's local share of a residential placement contract for a special education student.

(2) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add Section 30.003(h), Education Code, to read as follows:

(h) For the 1998-1999 state fiscal biennium, the commissioner shall transfer from the Foundation School Program to the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf the amount necessary to reimburse each school for the decrease resulting from **HB 4**, Acts of the 75th Legislature, Regular Session, 1997, in a school district's local share of the cost of a student's education at the school for the 1997-1998 or 1998-1999 school year. This subsection expires September 1, 1999.

Explanation: This change is necessary to allow the commissioner of education to transfer state funds to the Texas School for the Blind and Visually Impaired and the Texas School for the Deaf to offset reductions in local funds that those schools may incur because of the increased residential homestead exemption proposed by **HJR 4** and **HB 4**.

(3) House Rule 13, Section 9(a)(4), is suspended to permit the committee to amend Section 41.002(f), Education Code, to read as follows:

(f) For purposes of Subsection [Subsections (d) and] (e), a school district's effective tax rate is determined by dividing the total amount of taxes collected by the district for the applicable school year less any amounts paid into a tax increment fund under Chapter 311, Tax Code, by the quotient of the district's taxable value of property, as determined under Subchapter M, Chapter 403, Government Code, divided by 100. This subsection expires September 1, 2000 [1998].

Explanation: This change is necessary to remove taxes paid by a school district into a tax increment fund from the computation of the district's effective tax rate for purposes of the "hold-harmless" provision of Chapter 41, Education Code.

(4) House Rule 13, Sections 9(a)(1), (3), and (4) are suspended to permit the committee to amend Section 41.093, Education Code, to read as follows:

Sec. 41.093. COST. (a) 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.

(b) For purposes of this section, a school district's maintenance and operations tax revenue does not include any amounts paid into a tax increment fund under Chapter 311, Tax Code.

Explanation: This change is necessary to avoid conflicting language in Section 41.093, Education Code, as amended by **SB 1873** and as amended by **HB 4**, and to remove taxes paid by a school district into a tax increment fund from the computation of the district's cost of an attendance credit under Subchapter D, Chapter 41, Education Code.

(5) House Rule 13, Section 9(a)(4), is suspended to permit the committee to amend Section 41.097(a), Education Code, to read as follows:

(a) The total amount required under Section 41.093 for a district to purchase attendance credits under this subchapter for any school year is reduced by an amount equal to the product of the district's costs under Section 6.06, Tax Code, for the central appraisal district in which it participates multiplied by a percentage that is computed by dividing the total amount required under Section 41.093 by the total amount of taxes imposed in the district for that year less any amounts paid into a tax increment fund under Chapter 311, Tax Code.

Explanation: This change is necessary to remove taxes paid by a school district into a tax increment fund from the computation of the credit for appraisal district costs in the district's cost of an attendance credit under Subchapter D, Chapter 41, Education Code.

(6) House Rule 13, Section 9(a)(4), is suspended to permit the committee to amend Section 41.099, Education Code, to read as follows:

Sec. 41.099. LIMITATION. (a) Sections 41.002(e), 41.094, 41.097, and 41.098 apply only to a district that:

(1) executes an agreement to purchase all attendance credits necessary to reduce the district's wealth per student to the equalized wealth level; ~~or~~

(2) executes an agreement to purchase attendance credits and an agreement under Subchapter E to contract for the education of nonresident students who transfer to and are educated in the district but who are not charged tuition; or

(3) executes an agreement under Subchapter E to contract for the education of nonresident students:

(A) to an extent that does not provide more than 10 percent of the reduction in wealth per student required for the district to achieve a wealth per student that is equal to or less than the equalized wealth level; and

(B) under which all revenue paid by the district to other districts, in excess of the reduction in state aid that results from counting the weighted average daily attendance of the students served in the contracting district, is required to be used for funding a consortium of at least three districts in a county with a population of less than 40,000 that is formed to support a technology initiative.

(b) A district that executes an agreement under Subsection (a)(3) must pay full market value for any good or service the district obtains through the consortium.

Explanation: This change is necessary to permit districts that participate in certain technology consortiums to receive certain benefits in connection with the purchase of attendance credits under Subchapter D, Chapter 41, Education Code.

(7) House Rule 13, Section 9(a)(1), is suspended to permit the committee to add Section 42.007(c), Education Code, to read as follows:

(c) The funding elements must include:

(1) a basic allotment for the purposes of Section 42.101 that, when combined with the guaranteed yield component provided by Subchapter F, represents the cost per student of a regular education program that meets all mandates of law and regulation;

(2) adjustments designed to reflect the variation in known resource costs and costs of education beyond the control of school districts;

(3) appropriate program cost differentials and other funding elements for the programs authorized under Subchapter C, with the program funding level expressed as dollar amounts and as weights applied to the adjusted basic allotment for the appropriate year;

(4) the maximum guaranteed level of qualified state and local funds per student for the purposes of Subchapter F;

(5) the enrichment and facilities tax rate under Subchapter F;

(6) the computation of students in weighted average daily attendance under Section 42.302; and

(7) the amount to be appropriated for the school facilities assistance program under Chapter 46.

Explanation: This change is necessary to conform Section 42.007(c), Education Code, to Chapters 42 and 46, Education Code, as amended and added by **HB 4**.

(8) House Rule 13, Sections 9(a)(1) and (4), are suspended to permit the committee to amend Section 42.302(b), Education Code, to read as follows:

(b) In computing the district enrichment and facilities tax rate of a school district, the total amount of taxes collected by the school district does not include the amount of:

(1) the district's local fund assignment under Section 42.252; ~~or~~

(2) taxes collected to pay the local share of the cost of an instructional facility for which the district receives state assistance under Chapter 46 [~~Subchapter H~~]; or

(3) taxes paid into a tax increment fund under Chapter 311, Tax Code.

Explanation: This change is necessary to conform Section 42.302(b)(2), Education Code, to Chapters 42 and 46, Education Code, as amended and added by **HB 4**, and to remove taxes paid by a school district into a tax increment fund from the computation of the district's effective tax rate for purposes of Tier 2 of the Foundation School Program.

(9) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add Section 11.13(s), Tax Code, to read as follows:

(s) Notwithstanding Subsection (n), an exemption under that subsection for the 1997 tax year adopted by the board of trustees of a school district before July 1, 1997, is valid. This subsection expires January 1, 1999.

Explanation: This change is necessary to permit the board of trustees of a school district to adopt an optional residence homestead exemption for the 1997 tax year after May 1, 1997, which is the date by which the exemption must be adopted under Section 11.13(n), Tax Code.

(10) House Rule 13, Section 9(a)(4), is suspended to permit the committee to repeal Section 42.351, Education Code.

Explanation: This change is necessary to repeal the requirement that the State Board of Education establish and update a statewide inventory of school facilities.

(11) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add SECTION 31 to read as follows:

SECTION 31. The amendment by this Act of Section 42.101, Education

Code, does not affect the change in the basic allotment under that section made by **HB 4**, Acts of the 75th Legislature, Regular Session, 1997.

Explanation: This change is necessary to avoid conflicting language in Section 42.101, Education Code, as amended by **SB 1873** and **HB 4**.

(12) House Rule 13, Sections 9(a)(1) and (4), are suspended to permit the committee to add SECTION 32 to read as follows:

SECTION 32. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1997.

(b) Section 6 of this Act takes effect September 1, 1997, but only if the constitutional amendment proposed by **HJR 4**, 75th Legislature, Regular Session, is approved by the voters. If the proposed constitutional amendment is not approved by the voters, Section 6 of this Act has no effect.

Explanation: This change is necessary to make the addition of Section 30.003(h), Education Code, contingent on adoption of the constitutional amendment proposed by **HJR 4**.

HR 1352 was adopted without objection.

SB 1873 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hochberg submitted the conference committee report on **SB 1873**.

Representative Hochberg moved to adopt the conference committee report on **SB 1873**.

The motion prevailed.

SB 1898 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Junell submitted the conference committee report on **SB 1898**.

Representative Junell moved to adopt the conference committee report on **SB 1898**.

A record vote was requested.

The motion prevailed by (Record 642): 138 Yeas, 0 Nays, 5 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berlanga; Bonnen; Bosse; Brimer; Burnam; Carter; Chavez; Chisum; Christian; Coleman; Cook; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davila; Davis; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farrar; Finnell; Flores; Gallego; Galloway; Giddings; Glaze; Goodman; Goolsby; Gray; Greenberg; Grusendorf; Haggerty; Hamric; 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; Patterson; Pickett; Pitts; Place; Price; Puente; Rabuck; Ramsay; Rangel; Raymond; Reyna, A.; Reyna, E.; Rhodes; Roman; Seaman; Serna; Shields; Siebert; Smithee; Solis; Solomons; Staples; Stiles; Swinford;

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); Clark; Garcia; Hartnett; Talton.

Absent, Excused — Corte; Gutierrez.

Absent — Moreno; Palmer; Sadler; Smith.

The speaker stated that **SB 1898** was passed subject to the provisions of Article III, Section 49a, of the Texas Constitution.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 642. I intended to vote no.

Crabb

I was shown voting yes on Record No. 642. I intended to vote no.

Horn

I was shown voting yes on Record No. 642. I intended to vote no.

E. Reyna

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of family business:

Junell on motion of R. Lewis.

HB 976 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Brimer submitted the following conference committee report on **HB 976**:

Austin, Texas, May 31, 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 976** 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
Duncan
Moncrief

Brimer
Junell
Elkins
Counts
Corte

On the part of the Senate

On the part of the House

HB 976, A bill to be entitled An Act relating to the conversion or transfer of the Texas workers' compensation insurance facility.

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

PART 1. PRIVATIZATION OF FACILITY

SECTION 1.01. PURPOSE. The purpose of this part is to provide a means to:

(1) convert the Texas workers' compensation insurance facility into a stock insurance company and facilitate the transfer of control to a third party as provided by this part; and

(2) ensure that the converted facility has full authority to enforce the rights of the facility existing immediately before the effective date of the conversion without impairment or limitation, except as expressly provided by this part.

SECTION 1.02. DEFINITIONS. In this part:

(1) "Closing date" means the effective date of the closing of the transactions contemplated by a conversion agreement, as provided by that agreement, and is the effective date of the conversion.

(2) "Commission" means the Texas Workers' Compensation Commission.

(3) "Commissioner" means the commissioner of insurance.

(4) "Converted facility" means the entity that exists after the facility is converted under this part.

(5) "Facility" means the Texas workers' compensation insurance facility that was established under Article 5.76-2, Insurance Code.

(6) "Fund" means the employers' rejected risk fund for providing workers' compensation coverages for rejected risks, as provided by Article 5.76-2, Insurance Code, as that article existed before its repeal.

(7) "Insurer" means a stock company, mutual company, reciprocal, or interinsurance exchange, the Texas Workers' Compensation Insurance Fund, or a Lloyd's association authorized to write workers' compensation insurance in this state.

(8) "Servicing company" means a member of the facility or other eligible entity that is designated by the commissioner to issue a policy that evidences the insurance coverages provided by the fund to a rejected risk and to service the risk as provided by Article 5.76-2, Insurance Code, as that article existed before its repeal.

SECTION 1.03. CONVERSION; CONVERSION EFFECTIVE DATE; CONTINGENT TRANSFER. (a) If a conversion agreement receives the approvals described by Sections 1.04 and 1.05 of this part, the facility shall convert from a nonprofit unincorporated association to a Texas stock property and casualty insurance company incorporated under Chapter 2, Insurance Code, effective on the consummation of the transactions contemplated by the agreement.

(b) If the required approvals are not obtained or the transactions are not consummated on or before August 31, 1997, the facility may not be converted, and instead, the operation of the facility shall be transferred to the Texas Property and Casualty Insurance Guaranty Association in accordance with Part 2 of this Act.

SECTION 1.04. CONVERSION AGREEMENT. The facility may enter into an agreement to issue and sell shares of the capital stock created as a result

of the conversion described by Section 1.03 of this part. To take effect, the agreement must be approved by a majority of the voting members of the governing committee of the facility at a meeting at which a quorum is present.

SECTION 1.05. COMMISSIONER APPROVAL. (a) On approval under Section 1.04 of this part, an agreement shall be submitted to the commissioner for approval. The agreement must be submitted to the commissioner not later than June 30, 1997. The commissioner shall review the agreement in the manner provided for review of a filing under Article 21.49-1, Insurance Code.

(b) If the commissioner approves the agreement, the commissioner shall order that the facility be converted.

SECTION 1.06. EFFECT OF CONVERSION. (a) The converted facility may exercise all the rights, privileges, powers, and authority of any other stock corporation organized to transact property and casualty insurance business in this state, subject to the requirements of this part. On the closing date:

(1) the converted facility is considered to be a continuation of the facility; and

(2) subject to Section 1.07 of this part, the converted facility is vested with all property of the facility.

(b) The converted facility may enforce all contract and statutory rights of the facility under any servicing company arrangements, and this part may not be construed as an assignment of the facility's rights or obligations under those agreements.

(c) Each debt, claim, and cause of action of the facility, and all property rights, privileges, franchises, and other interests of the facility, remain the property of the converted facility.

(d) The rights of all policyholders and creditors and the standing of all claims under the facility shall be preserved unimpaired under the converted facility.

(e) Subject to Section 1.07 of this part, each debt, liability, and duty of the facility becomes a debt, liability, or duty of the converted facility and may be enforced against the converted facility as if it were incurred or contracted by the converted facility.

(f) A cause of action or similar proceeding in which the facility was a party that is pending on the effective date of the conversion:

(1) is not affected by the conversion;

(2) may be continued to be prosecuted by or against the converted facility; and

(3) continues to be governed by and conducted under Article 5.76-2, Insurance Code, as that article existed before its repeal, and the applicable bylaws, rules, and regulations of the facility, as amended by the converted facility.

(g) The converted facility may not, without the prior consent of the commissioner, amend its bylaws, rules, or regulations in a manner that would reasonably be likely to have a material adverse effect on employees, beneficiaries, or the holders of or insureds under policies issued under Article 5.76, Insurance Code, or under Article 5.76-2, Insurance Code, as that article existed before its repeal.

(h) The converted facility may audit, at the converted facility's expense,

the books and records of each company that services policies of insurance issued under Article 5.76, Insurance Code, or under Article 5.76-2, Insurance Code, as that article existed before its repeal. The audit must be limited to:

(1) the books and records that relate to the policies described by this subsection; and

(2) claims paid on behalf of or charged to the converted facility.

SECTION 1.07. APPLICABLE LAW. Except as otherwise provided by this part, Article 5.76-2, Insurance Code, ceases to apply to the facility on the closing date and does not apply to the converted facility. Specifically, neither the converted facility nor any other insurer succeeds to the facility's right to assess the facility's member insurers under Section 4.04, Article 5.76-2, Insurance Code.

SECTION 1.08. COMPLIANCE; CAPITALIZATION REQUIREMENTS.

(a) The converted facility shall comply with the Insurance Code and rules adopted by the commissioner except as otherwise provided by this part. If the converted facility does not issue any policies of insurance after the closing date, the converted facility:

(1) is exempt from:

(A) the risk-based capital and surplus regulations adopted under Article 2.02, Insurance Code; and

(B) the requirements adopted under Article 21.45, Insurance Code;

(2) may discount the reserves for losses and loss adjustment expenses in a manner and to the extent authorized by the commissioner in the order approving the conversion agreement;

(3) may reflect accounts receivable as an admitted asset, notwithstanding the regulations adopted under Articles 2.08 and 2.10, Insurance Code, if those accounts receivable are guaranteed by an insurance company authorized to do business in this state:

(A) in an amount not to exceed \$15 million; and

(B) in a manner and to the extent authorized by the commissioner in the order approving the conversion agreement; and

(4) may receive full credit for the reinsurance contemplated by the conversion agreement to the extent ordered by the commissioner, notwithstanding Article 5.75-1, Insurance Code, and the rules adopted under that article.

(b) The commissioner shall set the capitalization requirements of the converted facility in the order approving the conversion agreement.

SECTION 1.09. FINAL ASSESSMENT. (a) The facility, through action by its governing committee, may make a final assessment of the insurance carriers licensed in this state in accordance with Section 4.04, Article 5.76-2, Insurance Code, as that section existed before its repeal, and the facility's bylaws, rules, and regulations in the amount that the governing committee determines is necessary to consummate the transactions contemplated by the conversion agreement. The final assessment must be made at a time to allow the assessment to be paid in full on or before the closing date.

(b) On or before the closing date, and under terms and conditions the governing committee considers necessary or advisable to consummate the

transactions contemplated by the conversion agreement, the governing committee may:

(1) bind the carriers described by Subsection (a) of this section to reinsure a portion of the facility's liabilities instead of payment of any or all of the final assessment under Subsection (a) of this section; or

(2) defer payment on any or all of the final assessment.

(c) A reinsurance arrangement approved by the governing committee must compute a member insurer's participation in reinsurance in the same manner that is used for the computation of assessments under Section 4.04, Article 5.76-2, Insurance Code, as that section existed before its repeal.

SECTION 1.10. IMMUNITY. The immunity provisions of Sections 2.05(h) and 2.12, Article 5.76-2, Insurance Code, as those provisions existed before their repeal, continue to apply to each act or omission that occurs before, on, or after the closing date and that is performed by the persons or entities covered by those provisions, including an act or omission related to the powers and duties contained in this part.

SECTION 1.11. DEFENSE; INDEMNIFICATION. If any party institutes or continues an action against the facility, or the governing committee, executive director, staff, agents, servants, or employees of the facility, whether or not serving in that capacity on the closing date, in connection with or arising from either the facility's operations or the transactions contemplated by the conversion agreement, the converted facility shall defend, indemnify, and hold harmless that person or entity from liability for any act or omission of that person or entity in connection with, or arising from the performance of, the powers and duties exercised under Article 5.76-2, Insurance Code, as that article existed before its repeal, but only on, and subject to, the terms and conditions set forth in the conversion agreement, which must be substantially as beneficial to the indemnified person or entity as the indemnification set forth in the facility's bylaws in effect on the closing date.

SECTION 1.12. CONTROLLING LAW. If a conflict exists between this part and any other statute relating to the facility, this part controls.

SECTION 1.13. CONFORMING AMENDMENT. Article 21.28-C, Insurance Code, is amended by adding Sections 26 and 27 to read as follows:

Sec. 26. COVERAGE FOR WORKERS' COMPENSATION INSURANCE POLICIES ISSUED BY TEXAS WORKERS' COMPENSATION INSURANCE FACILITY. (a) Notwithstanding any other provision of this article, this article applies to each policy of insurance issued under Article 5.76 of this code or Article 5.76-2 of this code, as that article existed before its repeal.

(b) Notwithstanding any other provision of this article, after the conversion of the Texas workers' compensation insurance facility to a stock insurance company, that converted facility shall be considered an impaired insurer for purposes of this article if any of the actions described by Section 5(9)(A) or (B) of this article occurs to the converted facility.

(c) A claim under such an insurance policy is a covered claim for purposes of this article if the claim satisfies the definition under Section 5(8) of this article, whether or not the converted facility:

(1) issued or assumed the policy; or

(2) was licensed to do business in this state at the time:

(A) the policy was written; or

(B) the converted facility became an impaired insurer.

(d) If a conflict exists between this section and any other statute relating to the Texas workers' compensation insurance facility or the Texas Property and Casualty Insurance Guaranty Association, this section controls.

Sec. 27. IMMUNITY. There is no liability on the part of, and a cause of action does not arise against, any member insurer of the association, the association, an agent or employee of the association, a member of the board of directors of the association, or the commissioner or the commissioner's representative for any act or omission in the performance of any activity related to the negotiations relating to the privatization of the Texas workers' compensation insurance facility. This section applies to each activity undertaken by such a person or entity, regardless of the date of the act or omission.

SECTION 1.14. EFFECTIVE DATE FOR PART 1. This part takes effect immediately.

PART 2. CONTINGENT TRANSFER

SECTION 2.01. TRANSFER TO TEXAS PROPERTY AND CASUALTY INSURANCE GUARANTY ASSOCIATION; EFFECTIVE DATE. (a) If the conversion required under Part 1 of this Act does not occur on or before August 31, 1997, the Texas Property and Casualty Insurance Guaranty Association, on September 1, 1997, shall take control of the operations and all of the assets, liabilities, and obligations of the Texas workers' compensation insurance facility as provided by this part.

(b) This part takes effect September 1, 1997, but only if the conversion described by Subsection (a) of this section does not occur before that date. If that conversion does occur before that date, this part has no effect.

SECTION 2.02. CONFORMING AMENDMENT. Article 21.28-C, Insurance Code, is amended by adding Section 26 to read as follows:

Sec. 26. TRANSFER OF FACILITY TO ASSOCIATION. (a) The purpose of this section is to:

(1) provide a means for the transfer of control of the assets, liabilities, and obligations of the Texas workers' compensation insurance facility to the Texas Property and Casualty Insurance Guaranty Association; and

(2) ensure that the association has full authority to enforce the rights of the facility without limitation, except as expressly provided by this section.

(b) In addition to the definitions under Section 5 of this Act, in this section:

(1) "Comptroller" means the Texas comptroller of public accounts.

(2) "Facility" means the Texas workers' compensation insurance facility.

(3) "Fund" means the Texas Workers' Compensation Insurance Fund.

(4) "Insurer" means an insurance company licensed to do business in this state.

(5) "Texas workers' compensation insurance facility account" means the account maintained by the association for the assets of the facility.

(c) The association shall take control of the facility's assets, liabilities, and obligations and may administer all of the remaining aspects of the facility's

operation. The association has full authority to enforce the contract or statutory rights of the facility under any servicing company agreements. This section may not be construed to be an assignment of the facility's rights or obligations under those agreements.

(d) The association shall maintain the Texas workers' compensation insurance facility account separately from the association's accounts described by Section 6 of this Act. Each claim, expense, or other liability related to the assets, liabilities, and obligations of the facility shall be paid from, and all collections and receipts shall be deposited into, the Texas workers' compensation insurance facility account. Funds in the Texas workers' compensation insurance facility account shall be maintained outside the state treasury.

(e) Not later than June 1 of each year, the association shall report its operating results for the Texas workers' compensation insurance facility account to the commissioner on a calendar year premium and an accident year loss basis.

(f) For a claim in which the compensable injury occurred before January 1, 1992, the association shall compute at least annually its results for incurred losses in the Texas workers' compensation insurance facility account, including incurred but not reported losses, by accident year. If there is a deficit or surplus from the operation of the Texas workers' compensation insurance facility account for those claims, the amount of the deficit or surplus shall be assessed or rebated to the member insurers licensed in this state who were members of the facility during the calendar year. Each member insurer shall pay a proportionate share of the total assessment or receive a proportionate share of the total rebate based on that insurer's portion of the total voluntary workers' compensation insurance writings during the calendar year. The fund is not liable for any deficit incurred on a policy with an effective date before January 1, 1992.

(g) For claims with an accident date on or after January 1, 1992, the association shall compute at least annually its results for incurred losses in the Texas workers' compensation insurance facility account, including incurred but not reported losses, by accident year. If there is a deficit or surplus from operation of the Texas workers' compensation insurance facility account for those claims, the amount of the deficit or surplus shall be assessed or rebated to the member insurers licensed in this state who were members of the facility during the calendar year and to the fund. Each member insurer and the fund shall pay a proportionate share of the total assessment or receive a proportionate share of the total rebate based on its portion of the total voluntary workers' compensation insurance writings during the calendar year.

(h) The association may provide for the redistribution of all or part of an assessment that would otherwise be levied on a member insurer under Subsection (f) or (g) of this section if the member insurer is unable to pay the full assessment because the member insurer is in liquidation at the time of the assessment.

(i) The association may authorize the deferment of the payment of an assessment made under Subsection (f) or (g) of this section. A deferment may be allowed only if the cash flow of the Texas workers' compensation insurance facility account is adequate to meet all needs.

(j) If a member insurer or the fund elects to defer any portion of an assessment as provided by this section, the entire unpaid portion of the assessment and any accrued interest must be shown as a liability on each financial and annual statement of that insurer.

(k) A member insurer may not be allowed a credit against any tax levied by this state as a result of an assessment paid under this section.

(l) The association may invest Texas workers' compensation insurance facility account funds in the types of investments authorized by law for an insurer authorized to write workers' compensation insurance coverage in this state. The association shall develop an investment policy for the Texas workers' compensation insurance facility account and shall submit that policy to the commissioner for review and approval.

(m) The association shall submit to the commissioner for approval a plan of operation to ensure the fair, reasonable, and equitable administration of the Texas workers' compensation insurance facility account not later than October 1, 1997. The commissioner shall approve or disapprove the association's plan of operation of the Texas workers' compensation insurance facility account not later than the 60th day after the date on which the association submits the plan to the commissioner.

(n) If the commissioner does not approve the plan of operation, the association shall submit to the commissioner an amended plan of operation with any amendments necessary or suitable to ensure the fair, reasonable, and equitable administration of the Texas workers' compensation insurance facility account. The plan of operation and any amendments take effect on approval in writing by the commissioner. If the association fails to submit suitable amendments to the plan, the commissioner, after notice and hearing, shall adopt reasonable rules as necessary or advisable to implement this section. Those rules shall continue in force until modified by the commissioner or superseded by a plan submitted by the association and approved by the commissioner.

(o) In addition to all immunities and protections otherwise provided by this article, the association succeeds to all rights, defenses, immunities, and liabilities of the facility in each cause of action or other proceeding pending by or against the facility on September 1, 1997, or filed after that date. The immunity provisions of Sections 2.05(h) and 2.12, Article 5.76-2 of this code, as those provisions existed before their repeal, continue to apply to each act or omission that occurs before, on, or after September 1, 1997, and that is performed by the persons or entities covered by those provisions.

(p) If any party institutes or continues an action against the facility, the governing committee of the facility, the executive director of the facility, a member insurer solely in that insurer's capacity as a member insurer, or an agent, servant, attorney, consultant, or employee of the facility, whether or not serving in that capacity on September 1, 1997, in connection with or arising from either the facility's operations or the transactions contemplated by this section, the association shall defend, indemnify, and hold harmless that person or entity from liability for any act or omission of that person or entity in connection with, or arising from the performance of, the person's or entity's powers and duties on behalf of the facility. A cause of action or other proceeding described by this subsection shall continue to be governed by and

conducted under this section and Article 5.76-2 of this code, as that article existed before its repeal, and the applicable bylaws, rules, and regulations of the facility, and those provisions are continued in effect for the purposes of this section.

(q) The association may enter into negotiations for the privatization to a single insurer of all the assets, liabilities, and obligations maintained in the Texas workers' compensation insurance facility account. If the association determines that privatization under this subsection is in the best interest of this state, the association shall obtain the written approval of the commissioner before entering into a privatization agreement to consummate the applicable transaction.

(r) Any net proceeds from the privatization of the Texas workers' compensation insurance facility account shall be rebated in accordance with Subsection (g) of this section.

(s) If an insurer that assumes the assets, liabilities, and obligations maintained in the Texas workers' compensation insurance facility account under a privatization agreement approved under Subsection (q) of this section becomes an impaired insurer after that privatization agreement takes effect, any remaining facility claims shall be covered claims under this article.

(t) If a conflict exists between this section and any other statute relating to the facility or the association, this section controls.

PART 3. REPEALER; TRANSITION; EMERGENCY

SECTION 3.01. REPEALER. Except as otherwise provided by this Act, the following laws are repealed on the effective date of this Act:

(1) Article 5.76-2, Insurance Code; and

(2) Section 18.24(b), Chapter 12, Acts of the 72nd Legislature, 2nd Called Session, 1991, as amended by Section 8, Chapter 885, Acts of the 73rd Legislature, Regular Session, 1993.

SECTION 3.02. SEVERABILITY CLAUSE. If any provision of this Act or the application of this Act to any person or entity or circumstance is held invalid by a court of competent jurisdiction, that invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 3.03. SAVING CLAUSE. The repeal of Article 5.76-2, Insurance Code, under Section 3.01 of this Act does not affect rights and liabilities accruing under that article before the effective date of this Act, and that article is continued in effect for that purpose and for the purposes expressly provided by this Act or Section 26, Article 21.28-C, Insurance Code, as added by this Act.

SECTION 3.04. INFORMATION RELATING TO CRIMINAL WRONGDOING. The Texas workers' compensation insurance facility shall deliver to the office of the district attorney of Travis County, not later than the 30th day after the effective date of the conversion or transfer occurring under this Act, any evidence of possible criminal wrongdoing or fraud by others that is known, as the result of litigation or otherwise, to the facility or an employee or agent of the facility.

SECTION 3.05. EFFECTIVE DATE. This part takes effect:

(1) on the closing date of the conversion of the Texas workers'

compensation insurance facility under Part 1 of this Act as that date is defined by Section 1.02 of this Act; or

(2) on September 1, 1997, if Part 2 of this Act takes effect.

SECTION 3.06. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

HB 976 - STATEMENT OF LEGISLATIVE INTENT

Members, Section 3.03 is a Savings Clause, the purpose of which is to make sure that all of the rights and liabilities of the workers comp policyholders and the insurance companies that exist under current law are not changed by this Act.

Commissioner Bomer is now in a rulemaking process to establish passthroughs of assessments or rebates from the Facility operations under Section 4.04 of Article 5.76-2, and this Act does not change that process at all. We want to make sure that Commissioner Bomer is able to do his job and finish that rulemaking without any change caused by this Bill.

There is also litigation filed over passthroughs of rebates under 5.76-2, and this Bill is not intended to have any impact for either side in that litigation. We just want to pass a Bill that authorizes the transfer of the Facility risks without altering in any way arguments or claims or lawsuits or rulemaking interests, and it is our intent that this Savings Clause makes that clear.

Brimer

Representative Brimer moved to adopt the conference committee report on **HB 976**.

A record vote was requested.

The motion prevailed by (Record 643): 143 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; 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; 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.; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, G.; Lewis, R.; 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; Wohlgenuth; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Corte; Gutierrez; Junell.

Absent — Price.

SB 371 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Telford submitted the conference committee report on **SB 371**.

Representative Telford moved to adopt the conference committee report on **SB 371**.

The motion prevailed.

SB 841 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hilbert submitted the conference committee report on **SB 841**.

Representative Hilbert moved to adopt the conference committee report on **SB 841**.

The motion prevailed.

SJR 43 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hilbert submitted the conference committee report on **SJR 43**.

Representative Hilbert moved to adopt the conference committee report on **SJR 43**.

A record vote was requested.

The motion prevailed by (Record 644): 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; 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; 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.; Kamel; Keel; Keffer; 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; Price; 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.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Gutierrez; Junell.

Absent — King; Puente.

HCR 335 - ADOPTED
(by Telford)

Representative Telford moved to suspend all necessary rules to take up and consider at this time **HCR 335**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HCR 335

WHEREAS, **HB 1856** 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 1856**, in the SECTION of the bill added by Senate Floor Amendment No. 1, by striking "Section 415.062, Government Code, ia amended to read as follows:

Sec. 415.062. PROFESSIONAL ACHIEVEMENT AND PROFICIENCY CERTIFICATES." and substituting "Section 415.062(a), Government Code, is amended to read as follows:".

HCR 335 was adopted without objection.

HCR 336 - ADOPTED
(by Goodman)

Representative Goodman moved to suspend all necessary rules to take up and consider at this time **HCR 336**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HCR 336

WHEREAS, **HB 1550** 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 1550**, in SECTION 4 of the bill, in added Section 51.095(a)(5)(A), Family Code, by striking "and this child" and substituting "and the child".

HCR 336 was adopted 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. 3).

HR 1358 - ADOPTED
(by Dutton)

The speaker laid before the house the following privileged resolution:

HR 1358

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 133**, to consider and take action on the following matter:

House Rule 13, Section 9(a)(4), is suspended to permit the committee to add new SECTION 19 of the bill to read as follows:

SECTION 19. Subsection (a), Section 59.003, Family Code, is amended to read as follows:

(a) Subject to Subsection (e), after a child's first commission of delinquent conduct or conduct indicating a need for supervision, the probation department may or the juvenile court may, in a disposition hearing under Section 54.04, assign a child one of the following sanction levels according to the child's conduct:

(1) for conduct indicating a need for supervision, other than conduct described in Section 51.03(b)(6) or a Class A or B misdemeanor, the sanction level is one;

(2) for conduct indicating a need for supervision under Section 51.03(b)(6) or a Class A or B misdemeanor, other than a misdemeanor involving the use or possession of a firearm, or for delinquent conduct under Section 51.03(a)(2) or (3), the sanction level is two;

(3) for a misdemeanor involving the use or possession of a firearm or for a state jail felony or a felony of the third degree, the sanction level is three;

(4) for a felony of the second degree, the sanction level is four;

(5) for a felony of the first degree, other than a felony involving the use of a deadly weapon or causing serious bodily injury, the sanction level is five;

(6) for a felony of the first degree involving the use of a deadly weapon or causing serious bodily injury or for an aggravated controlled substance felony, the sanction level is six or, if the petition has been approved by a grand jury under Section 53.045, seven; or

(7) for a capital felony, the sanction level is seven.

Explanation: This change is necessary to clarify the sanctions that may be imposed for conduct indicating a need for supervision.

HR 1358 was adopted without objection.

SB 133 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Dutton submitted the conference committee report on **SB 133**.

Representative Dutton moved to adopt the conference committee report on **SB 133**.

A record vote was requested.

The motion prevailed by (Record 645): 144 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; 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; 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.; Kamel; Keel; Keffer; King; Krusee; Kubiak; Kuempel; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moffat; Moreno; Mowery; Naishtat; Nixon; Oakley; Oliveira; Olivo; Palmer; Patterson; Pickett; Pitts; Place; Price; 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.

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

Absent, Excused — Corte; Gutierrez; Junell.

**HB 1542 - HOUSE DISCHARGES CONFEREES
HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Counts called up with senate amendments for consideration at this time,

HB 1542, A bill to be entitled An Act relating to the authorization of the Texas Natural Resource Conservation Commission to issue general permits by rule for the discharge of waste into or adjacent to water in the state.

Representative Counts moved to discharge the conferees and concur in the senate amendments to **HB 1542**.

The motion prevailed without objection.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 1542**, Section (j) as follows:

(j) The issuance, amendment, renewal, suspension, revocation, or cancellation of a general permit or of authority to discharge under a general permit is not subject to Subchapter C-F, Chapter 2001, Government Code.

Senate Amendment No. 2 (Senate Committee Amendment No. 2)

Amend **HB 1542** in SECTION 1 of the bill, on page 2, lines 5 and 6, in Section 26.040(a)(5)(B), by adding after "which" and before "will", the following:

"exceeds 500,000 gallons in any twenty-four hour period or which"

Senate Amendment No. 3

Amend Committee Amendment No. 2 to **HB 1542** by striking the text of the amendment and substituting the following:

Amend **HB 1542** in SECTION 1 of the bill by striking proposed Section 26.040(a)(5)(B), Water Code (committee printing, page 1, lines 46-48), and substituting:

(B) the category of discharges covered by the general permit will not include a discharge of:

(i) pollutants that will cause significant adverse effects to water quality; or

(ii) more than 500,000 gallons into surface water during any 24-hour period.

HR 1359 - ADOPTED

(by Laney)

Representative Goolsby moved to suspend all necessary rules to take up and consider at this time **HR 1359**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1359, Honoring Missy Jones Thistlewood.

HR 1359 was adopted without objection.

On motion of Representative Counts, the names of all the members of the house were added to **HR 1359** as signers thereof.

**HB 3522 - HOUSE DISCHARGES CONFEREES
HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Rhodes called up with senate amendments for consideration at this time,

HB 3522, A bill to be entitled An Act relating to the administration and enforcement of the workers' compensation law; providing penalties.

Representative Rhodes moved to discharge the conferees and concur in the senate amendments to **HB 3522**.

The motion prevailed without objection.

Senate Amendment No. 1

Amend Section 3 of **HB 3522** as follows:

1) On page 1, beginning on line 57, through line 61, strike the language beginning with "Out" and ending with "fraud."

2) On page 2, beginning on line 43, through line 48, strike the language beginning with "Out" and ending with "fraud."

Senate Amendment No. 2

Amend **HB 3522** as follows:

1) On page 2, strike lines 68 through page 3, line 4, and substitute the following:

Sec. 415.024 BREACH OF SETTLEMENT AGREEMENT; ADMINISTRATIVE VIOLATION. A material and substantial breach of a settlement agreement that establishes a compliance plan is a Class A administrative violation. In determining the amount of the penalty, the commission shall consider the total volume of claims handled by the insurance carrier.

Senate Amendment No. 3

Amend **HB 3522** as follows:

Insert the following as a new section and renumber any subsequent sections accordingly:

"Section 408.161(a), Labor Code, is amended to read as follows:

- (a) Lifetime income benefits are paid until the death of the employee for:
- (1) total and permanent loss of sight in both eyes;
 - (2) loss of both feet at or above the ankle;
 - (3) loss of both hands at or above the wrist;
 - (4) loss of one foot at or above the ankle and the loss of one hand at or above the wrist;
 - (5) an injury to the spine that results in permanent and complete paralysis of both arms, both legs, or one arm and one leg; or
 - (6) a physically traumatic injury to the brain [~~an injury to the skull~~] resulting in incurable insanity or imbecility."

Senate Amendment No. 4

Amend **HB 3522** as follows:

(1) In SECTION 9 (page 3, line 5, committee printing), following "(a)", strike "This", and substitute "Except as provided in Subsection (b), this".

(2) In SECTION 9, insert a new Subsection (b) (page 3, between lines 5 and 6, committee printing), to read as follows:

"(b) Section 408.104, Labor Code, as added by SECTION 5 of this Act, takes effect January 1, 1998."

(3) Renumber the subsequent subsections appropriately.

HB 3350 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Place submitted the following conference committee report on **HB 3350**:

Austin, Texas, May 31, 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 3350** 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.

Sibley
Nelson
Shapiro

Place
Keel
Dunnam
Hightower

On the part of the Senate

On the part of the House

HB 3350, A bill to be entitled An Act relating to the criminal offenses applicable to gambling and gambling devices.

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

SECTION 1. Section 47.01, Penal Code, is amended by amending Subdivisions (4) and (9) and adding Subdivisions (10)-(14) to read as follows:

(4) "Gambling device" means any device that is not an amusement machine as defined by this chapter and:

(A) is a device on which a game of chance or a combination of skill and chance can be played for consideration and is designed, constructed, adapted, or maintained to afford a player of the device an opportunity to obtain anything of value based solely or partially on chance; and

(B) any other device that:

(i) allows a player to increase the probability of winning by paying a greater consideration than the minimum required for a single play; or

(ii) allows a player to accumulate or carry over a game credit or replay right from a single play of the device to the next single play of the device and allows the game credit or replay right to be altered, removed, canceled, or knocked off by a means other than continuous play [electronic, electromechanical, or mechanical contrivance not excluded under Paragraph (B) that for a consideration affords the player an opportunity to obtain anything of value, the award of which is determined solely or partially by chance, even though accompanied by some skill, whether or not the prize is automatically paid by the contrivance. The term:

[(A) includes, but is not limited to, gambling device versions of bingo, keno, blackjack, lottery, roulette, video poker, or similar electronic, electromechanical, or mechanical games, or facsimiles thereof, that operate by chance or partially so, that as a result of the play or operation of the game award credits or free games, and that record the number of free games or credits so awarded and the cancellation or removal of the free games or credits; and

[(B) does not include any electronic, electromechanical, or mechanical contrivance designed, made, and adapted solely for bona fide amusement purposes if the contrivance rewards the player exclusively with noncash merchandise prizes, toys, or novelties, or a representation of value redeemable for those items, that have a wholesale value available from a single play of the game or device of not more than 10 times the amount charged to play the game or device once or \$5, whichever is less].

(9) "Thing of value," "anything of value," or "something of value" includes anything that can be awarded to the player of a gambling device other than [means any benefit, but does not include] an unrecorded and immediate right to continue playing the device without paying additional consideration. Each of those terms includes:

(A) a ticket or token that entitles the holder to receive any other thing of value;

(B) a game credit or replay right awarded by a gambling device if it is capable of accumulating or recording and amending, canceling, or removing the game credit or replay right [of replay not exchangeable for value].

(10) "Amusement machine":(A) means a device that:

(i) is designed, constructed, and maintained solely for bona fide amusement purposes that awards the player exclusively with prizes, toys, novelties, other noncash merchandise or with tickets or tokens redeemable solely for gift certificates or noncash merchandise that have a maximum wholesale value, not exceeding \$5, available from a single play of the machine; and

(ii) does not:

(a) allow a player to increase the probability of winning by paying a greater consideration than the minimum required for a single play; or

(b) allow a player to accumulate or carry over a game credit or replay right from a single play of the device to the next single play of the device or allow the game credit or replay right to be altered, removed, canceled, or knocked off by a means other than continuous play; and

(B) is not a gambling device, as defined by this chapter, and the prohibition and penalties in this chapter do not apply to an amusement machine.

(11) "Device" includes all or part of an operable or inoperable mechanical, electronic, or electromechanical contrivance, machine, or apparatus.

(12) "Gambling" means the offense described by Section 47.02.

(13) "Noncash merchandise" does not include any of the following:

(A) a money order;

(B) a traveler's check; or

(C) an item of cash equivalence; other than a gift certificate.

(14) "Single play" means the insertion of a consideration into a contrivance, device, or machine that allows the player to take part in one turn, chance, or play of the contrivance, device, or machine.

SECTION 2. Section 47.02(e), Penal Code, is amended to read as follows:

(e) It is a defense to prosecution under this section that a person played for something of value other than money using an amusement machine [electronic, electromechanical, or mechanical contrivance excluded from the definition of "gambling device" under Section 47.01(4)(B)].

SECTION 3. Section 47.03(a), Penal Code, is amended to read as follows:

(a) A person commits an offense if the person [he] intentionally or knowingly does any of the following acts with the intent to further gambling:

(1) operates or participates in the earnings of a gambling place or gambling device;

(2) engages in bookmaking;

(3) for gain, becomes a custodian of anything of value bet or offered to be bet;

(4) sells chances on the partial or final result of or on the margin of victory in any game or contest or on the performance of any participant in any game or contest or on the result of any political nomination, appointment, or election or on the degree of success of any nominee, appointee, or candidate; or

(5) for gain, sets up or promotes any lottery or sells or offers to sell

or knowingly possesses for transfer, or transfers any card, stub, ticket, check, or other device designed to serve as evidence of participation in any lottery.

SECTION 4. Sections 47.06(b) and (e), Penal Code, are amended to read as follows:

(b) A person commits an offense if, with the intent to further gambling, the person [he] knowingly owns, manufactures, transfers commercially, or possesses a mechanical or electromechanical slot machine or any altered gambling equipment that the person [he] knows is designed for gambling purposes or any equipment that the person [he] knows is designed as a subassembly or essential part of such device.

(e) An offense under this section is a Class A misdemeanor, unless the defendant has been previously convicted under this section, in which event the offense is a state jail felony.

SECTION 5. This Act takes effect December 1, 1997.

SECTION 6. (a) The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

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.

(Counts in the chair)

(Speaker in the chair)

Representative Place moved to adopt the conference committee report on **HB 3350**.

The motion prevailed.

ADDRESS BY REPRESENTATIVE GARCIA ON A MATTER OF PERSONAL PRIVILEGE

The speaker recognized Representative Garcia who addressed the house on a matter of personal privilege.

REMARKS ORDERED PRINTED

Representative Merritt moved to print remarks made on May 30 by David V. Stroud.

The motion prevailed without objection.

Representative Merritt moved to print remarks made on May 30 by Sergeant James M. Logan.

The motion prevailed without objection.

HR 1343 - ADOPTED (by Hirschi)

Representative Hirschi moved to suspend all necessary rules to take up and consider at this time **HR 1343**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1343, Commending the Honorable Kathryn A. "Kay" Yeager for her contributions to the Wichita Falls community.

HR 1343 was adopted without objection.

HR 1344 - ADOPTED
(by Hirschi)

Representative Hirschi moved to suspend all necessary rules to take up and consider at this time **HR 1344**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1344, Honoring Midwestern State University president Dr. Louis J. Rodriguez.

HR 1344 was adopted without objection.

HR 1330 - ADOPTED
(by Wohlgemuth)

Representative Wohlgemuth moved to suspend all necessary rules to take up and consider at this time **HR 1330**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1330, Designating Clifton the Norwegian Capital of Texas.

HR 1330 was adopted without objection.

HR 1329 - ADOPTED
(by Chavez)

Representative Chavez moved to suspend all necessary rules to take up and consider at this time **HR 1329**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1329, Honoring Rosa Ramirez Guerrero for her many contributions to the community.

HR 1329 was adopted without objection.

On motion of Representative Jackson, the names of all the members of the house were added to **HR 1329** as signers thereof.

HCR 334 - ADOPTED
(by Jackson)

Representative Jackson moved to suspend all necessary rules to take up and consider at this time **HCR 334**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HCR 334, Honoring Harris County Commissioner Jim Fonteno for his development of a senior citizens program.

HCR 334 was adopted without objection.

HR 1294 - ADOPTED
(by Dukes)

Representative Dukes moved to suspend all necessary rules to take up and consider at this time **HR 1294**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1294, Commemorating the 20th anniversary of the death of Nathaniel H. Kindred.

HR 1294 was unanimously adopted by a rising vote.

HR 1295 - ADOPTED
(by Dukes)

Representative Dukes moved to suspend all necessary rules to take up and consider at this time **HR 1295**.

The motion prevailed without objection.

The speaker laid before the house the following resolution:

HR 1295, Honoring the fifth annual Women in Ministry Conference.

HR 1295 was adopted without objection.

STATEMENTS OF VOTE

I was absent because of a death in the family when the house voted on the following measures:

HB 4, **SB 534** (Record No. 617), **SB 987** (Record No. 618), **HJR 4** (Record No. 619), **HB 298** (Record No. 620), **HB 2086** (Record No. 621), **HB 318** (Record No. 622), and **SB 148** (Record No. 623).

Had I been present, I would have voted yes.

Flores

ADJOURNMENT

Representative Gray moved that the house adjourn until 10 a.m. tomorrow in memory of the Honorable James Hury, former member of the Texas House of Representatives.

The motion prevailed without objection.

The house accordingly, at 7:15 p.m., adjourned until 10 a.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

HCR 333 (by Stiles), Honoring Geneos Pete Cokinos on receiving the Ellis Island Medal of Honor.

To Rules & Resolutions.

HR 1301 (by Hodge), In memory of Lincoln J. Harrison, Sr.

To Rules & Resolutions.

HR 1308 (by Chavez), Congratulating St. Clement's Episcopal Parish School on receiving a Blue Ribbon School award.

To Rules & Resolutions.

HR 1309 (by Chavez), Honoring Laura Margarita Uribarri for her service to the legislature.

To Rules & Resolutions.

HR 1310 (by Chavez), Paying tribute to the memory of Jose Antonio Burciaga and honoring him posthumously as a Texas Treasure.

To Rules & Resolutions.

HR 1311 (by Chavez), Honoring Isaac Flores Harrington for his service to the legislature.

To Rules & Resolutions.

HR 1312 (by Van de Putte), In memory of Curtis Moody Armstrong.

To Rules & Resolutions.

HR 1316 (by Gallego, et al.), In memory of Ezequiel Hernandez.

To Rules & Resolutions.

HR 1327 (by Hartnett), In memory of Cheryce Davault.

To Rules & Resolutions.

HR 1337 (by Stiles), In memory of Jesse Waller.

To Rules & Resolutions.

SCR 112 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. 78

HB 39, HB 99, HB 629, HB 966, HB 1820, HB 2252, HB 2777, HB 2906, HB 2918, HB 2964, HB 3061, HB 3234, HB 3263, HCR 302

House List No. 79

HB 4, HB 298, HB 311, HB 768, HB 1200, HB 2017, HB 2088, HB 2098, HB 2133, HB 2339, HB 2394, HB 2542, HB 2913, HB 2948, HB 2981, HB 3019, HCR 219, HCR 312, HCR 318, HCR 320, HCR 322, HCR 324, HJR 4, HJR 104

Senate List No. 41

SB 17, SB 121, SB 361, SB 381, SB 521, SB 534, SB 542, SB 581, SB 583, SB 609, SB 642, SB 823, SB 839, SB 897, SB 987, SB 1066, SB 1114, SB 1161, SB 1176, SB 1190, SB 1249, SB 1292, SB 1678, SB 1715, SB 1752, SB 1831, SB 1910, SCR 29, SCR 44, SCR 75, SCR 106, SCR 107, SCR 108

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

- HB 793** (viva-voce vote)
- HB 907** (viva-voce vote)
- HB 951** (viva-voce vote)
- HB 972** (31 YEAS, 0 NAYS)
- HB 1107** (viva-voce vote)
- HB 1150** (31 YEAS, 0 NAYS)
- HB 1285** (viva-voce vote)
- HB 1525** (31 YEAS, 0 NAYS)
- HB 1526** (viva-voce vote)
- HB 1550** (31 YEAS, 0 NAYS)
- HB 1596** (viva-voce vote)

HB 2001 (viva-voce vote)
HB 2272 (viva-voce vote)
HB 2697 (viva-voce vote)
HB 2846 (viva-voce vote)
HB 3157 (31 YEAS, 0 NAYS)
HB 3207 (viva-voce vote)
SB 1 (31 YEAS, 0 NAYS)
SB 35 (viva-voce vote)
SB 247 (31 YEAS, 0 NAYS)
SB 343 (viva-voce vote)
SB 383 (31 YEAS, 0 NAYS)
SB 384 (viva-voce vote)
SB 862 (viva-voce vote)
SB 875 (viva-voce vote)
SB 932 (viva-voce vote)
SB 1253 (viva-voce vote)
SB 1425 (31 YEAS, 0 NAYS)

Respectfully,

Betty King
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Sunday, June 1, 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 PASSED THE FOLLOWING MEASURES:

HCR 186 Craddick SPONSOR: Bivins
Honoring the Confederate Air Force, Desert Squadron, on the occasion of their fifth annual fly-in.

HCR 293 Turner, Bob SPONSOR: Fraser
Instructing the enrolling clerk of the House of Representatives to correct technical errors in **HB 1145**.

HCR 295 Lewis, Glenn SPONSOR: Moncrief
Recognizing the Resource Connection of Tarrant County.

HCR 305 Hightower SPONSOR: Madla
Instructing the enrolling clerk of the house to make corrections in **HB 2049**.

HCR 321 Greenberg SPONSOR: Ellis
Instructing the enrolling clerk of the house to make a technical correction **HB 3116**.

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

SCR 93 (viva-voce vote)

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 583 (viva-voce vote)

HB 2384 (31 YEAS, 0 NAYS)

HB 2437 (viva-voce vote)

HB 2517 (viva-voce vote)

HB 2577 (viva-voce vote)

HB 2837 (31 YEAS, 0 NAYS)

HB 2914 (31 YEAS, 0 NAYS)

SB 133 (24 YEAS, 0 NAYS)

SB 228 (viva-voce vote)

SB 360 (viva-voce vote)

SB 370 (viva-voce vote)

SB 371 (viva-voce vote)

SB 382 (viva-voce vote)

SB 385 (viva-voce vote)

SB 414 (viva-voce vote)

SB 517 (25 YEAS, 0 NAYS)

SB 700 (viva-voce vote)

SB 841 (25 YEAS, 1 NAY)

SB 1100 (viva-voce vote)

SB 1284 (viva-voce vote)

SB 1440 (viva-voce vote)
SB 1486 (viva-voce vote)
SB 1563 (viva-voce vote)
SB 1856 (23 YEAS, 0 NAYS)
SB 1873 (viva-voce vote)
SB 1898 (26 YEAS, 1 NAY)
SJR 43 (26 YEAS, 0 NAYS)

Respectfully,

Betty King
 Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
 SENATE CHAMBER
 Austin, Texas
 Sunday, June 1, 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 CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 1120 (viva-voce vote) (after discharging the senate conferees)
SCR 3 (viva-voce vote)
SCR 71 (viva-voce vote)

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 976 (29 YEAS, 0 NAYS)
HB 1391 (viva-voce vote)
HB 2481 (viva-voce vote)
SB 1395 (23 YEAS, 8 NAYS)

Respectfully,

Betty King
 Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 31

Public Health - **HR 1166, HR 1254**

ENGROSSED

May 31 - **HCR 113, HCR 286**

ENROLLED

May 31 - **HB 39, HB 99, HB 629, HB 966, HB 1278, HB 1820, HB 2098, HB 2133, HB 2252, HB 2777, HB 2906, HB 2913, HB 2918, HB 2948, HB 2964, HB 2981, HB 3061, HB 3234, HB 3249, HB 3263, HCR 219, HCR 239, HCR 302, HCR 312, HJR 104**

SENT TO THE GOVERNOR

May 31 - **HB 51, HB 156, HB 196, HB 242, HB 251, HB 328, HB 330, HB 331, HB 381, HB 438, HB 506, HB 580, HB 591, HB 607, HB 623, HB 670, HB 677, HB 724, HB 970, HB 1142, HB 1161, HB 1228, HB 1324, HB 1362, HB 1370, HB 1410, HB 1445, HB 1465, HB 1476, HB 1516, HB 1548, HB 1553, HB 1662, HB 1716, HB 1843, HB 1868, HB 1891, HB 1908, HB 2065, HB 2128, HB 2189, HB 2214, HB 2295, HB 2297, HB 2324, HB 2332, HB 2383, HB 2491, HB 2541, HB 2592, HB 2644, HB 2705, HB 2736, HB 2798, HB 2799, HB 2827, HB 2866, HB 2984, HB 3062, HB 3088, HB 3194, HB 3249, HB 3370, HB 3545, HB 3583, HB 3602, HCR 86, HCR 215, HCR 239, HCR 269, HCR 275, HCR 280, HCR 281, HCR 290, HCR 298, HCR 306, HCR 310, HCR 311, HCR 313, HCR 316, HCR 317**

SIGNED BY THE GOVERNOR

May 31 - **HB 9, HB 385, HB 571, HB 732, HB 740, HB 808, HB 984, HB 1029, HB 1085, HB 1135, HB 1217, HB 1291, HB 1540, HB 1556, HB 1577, HB 1610, HB 1805, HB 1823, HB 2007, HB 2083, HB 2411, HB 2696, HB 2923, HB 3060, HB 3271, HB 3478, HB 3559, HB 3565**

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