

HOUSE JOURNAL

SEVENTY-SIXTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

EIGHTY-FIFTH DAY — THURSDAY, MAY 27, 1999

The house met at 11 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 494).

Present — Mr. Speaker; Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Smithee; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Absent, Excused — Corte; Crownover; Jones, D.

The invocation was offered by Reverend Ron Sutto, First Presbyterian Church, San Angelo, as follows:

Let us pray, though our legislative journey together has been long, and the end is near, Gracious God, your promise through the psalmist is ever before us. "I will instruct you and teach you the way you should go, I will counsel you with my eye upon you." (Psalm 32:8) Open our eyes, O God, to the opportunities of this new day. Open our ears, to hear the voices of those who call for help. Open our minds to the way of truth and justice. Open our hands to do the work that is before us, in these last few days, to bring goodwill and justice to all your people.

And then, Blessed God, at the end of session, let every member know, let every staff person and aide know, that they have done their duty to you, their state, their district, and to one another. Give them satisfaction in knowing that they have moved our state a step further in its unrelenting quest to be a place to live under God with liberty and justice for all. Amen.

LEAVE OF ABSENCE GRANTED

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

Corte on motion of Krusee.

(Merritt in the chair)

INTRODUCTION OF GUESTS

The chair recognized Representative Garcia, who introduced Superintendent Baldemar Rojas and representatives from the Dallas Independent School District.

CAPITOL PHYSICIAN

The speaker recognized Representative C. Jones who presented Dr. Henry Pope, Jr., of Bryan as the "Doctor for the Day."

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

(Speaker in the chair)

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).

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 Nos. 64 and 65).

HR 972 - ADOPTED (by Marchant)

Representative Marchant moved to suspend all necessary rules to take up and consider at this time **HR 972**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 972, Congratulating Rodney Johnson on being named Swedish-American of the Year.

HR 972 was read and was adopted without objection.

HR 1040 - ADOPTED (by B. Turner)

Representative B. Turner moved to suspend all necessary rules to take up and consider at this time **HR 1040**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1040, Honoring the Brownwood High School FFA Range and Pasture team and advisor Ben Ellebracht for winning first place in the 48th annual National Land and Range Judging Contest.

HR 1040 was read and was adopted without objection.

INTRODUCTION OF GUESTS

The speaker recognized Representative B. Turner, who introduced members of the Brownwood High School FFA and their advisor.

HR 1235 - ADOPTED (by Smithee)

Representative Smithee moved to suspend all necessary rules to take up and consider at this time **HR 1235**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1235, Honoring Pedro Martinez for his extraordinary achievements.

HR 1235 was read and was adopted without objection.

On motion of Representative Noriega, the names of all the members of the house were added to **HR 1235** as signers thereof.

INTRODUCTION OF GUEST

The speaker recognized Representative Smithee, who introduced Pedro Martinez.

With the aid of his laptop computer and new voice technology, Mr. Martinez spoke his first words since his automobile accident.

HR 1233 - ADOPTED (by Seaman)

Representative Seaman moved to suspend all necessary rules to take up and consider at this time **HR 1233**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1233, Honoring Corpus Christi's Sam Kane.

HR 1233 was adopted without objection.

On motion of Representative Uher, the names of all the members of the house were added to **HR 1233** as signers thereof.

HR 1221 - ADOPTED (by Pitts)

Representative Pitts moved to suspend all necessary rules to take up and consider at this time **HR 1221**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1221, Honoring state employees who have worked on Y2K remediation for the state of Texas.

HR 1221 was read and was adopted without objection.

On motion of Representative Greenberg, the names of all the members of the house were added to **HR 1221** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Pitts, who introduced state employees who have worked on Y2K remediation for the state of Texas.

HCR 304 - ADOPTED (by Olivo)

Representative Olivo moved to suspend all necessary rules to take up and consider at this time **HCR 304**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 304, Honoring Mariachi Cultural of University High School in Waco.

HCR 304 was read and was adopted without objection.

On motion of Representative Noriega and Hawley, the names of all the members of the house were added to **HCR 304** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Dunnam, who introduced members of Mariachi Cultural of University High School in Waco and their principal.

HCR 293 - ADOPTED (by Olivo, Dunnam, and Uher)

Representative Olivo moved to suspend all necessary rules to take up and consider at this time **HCR 293**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 293, Congratulating Jose Nino on being named the 1999 Bank One Tucson International Mariachi Conference Mariachi Director-Teacher of the Year.

HCR 293 was read and was adopted without objection.

On motion of Representatives Noriega and Hawley, the names of all the members of the house were added to **HCR 293** as signers thereof.

INTRODUCTION OF GUEST

The speaker recognized Representative Olivo, who introduced Jose Nino.

HR 1232 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1232**, suspending the limitations on the conferees for **HB 2175**.

HR 1236 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1236**, suspending the limitations on the conferees for **SB 1423**.

HR 998 - ADOPTED
(by Krusee)

Representative Krusee moved to suspend all necessary rules to take up and consider at this time **HR 998**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 998, In memory of Elaine Grace Miller Bizzell.

HR 998 was read and was unanimously adopted by a rising vote.

On motion of Representative Hilderbran, the names of all the members of the house were added to **HR 998** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Krusee, who introduced the family of Elaine Grace Miller Bizzell.

HR 1032 - ADOPTED
(by Madden)

Representative Madden moved to suspend all necessary rules to take up and consider at this time **HR 1032**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1032, Congratulating Ann Marie Honeycutt on her outstanding achievements.

HR 1032 was read and was adopted without objection.

INTRODUCTION OF GUEST

The speaker recognized Representative Madden, who introduced Ann Marie Honeycutt.

HR 974 - ADOPTED
(by Keffer)

Representative Keffer moved to suspend all necessary rules to take up and consider at this time **HR 974**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 974, Commending the Granbury Pirates soccer team on its 1999 state 4A championship.

HR 974 was read and was adopted without objection.

HR 1238 - ADOPTED
(by Cuellar)

Representative Cuellar moved to suspend all necessary rules to take up and consider at this time **HR 1238**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1238, Commending the House Research Organization and its staff.

HR 1238 was read and was adopted without objection.

HR 1030 - ADOPTED
(by Naishtat)

Representative Naishtat moved to suspend all necessary rules to take up and consider at this time **HR 1030**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1030, Recognizing the Capital Area Mental Health Center.

HR 1030 was read and was adopted without objection.

HR 739 - ADOPTED
(by Naishtat)

Representative Naishtat moved to suspend all necessary rules to take up and consider at this time **HR 739**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 739, Recognizing October 2, 1999, as HealthExpo Day in Texas.

HR 739 was adopted without objection.

HCR 306 - ADOPTED
(by Craddick)

Representative Craddick moved to suspend all necessary rules to take up and consider at this time **HCR 306**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 306, Honoring state technology award winners from Lee High School.

HCR 306 was adopted without objection.

HCR 305 - ADOPTED
(by Craddick)

Representative Craddick moved to suspend all necessary rules to take up and consider at this time **HCR 305**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 305, Honoring state technology award winners from Midland High School.

HCR 305 was adopted without objection.

HR 1213 - ADOPTED
(by Gutierrez)

Representative Gutierrez moved to suspend all necessary rules to take up and consider at this time **HR 1213**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1213, In memory of David Schultz.

HR 1213 was unanimously adopted by a rising vote.

HCR 307 - ADOPTED
(by Junell)

Representative Junell moved to suspend all necessary rules to take up and consider at this time **HCR 307**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 307, Honoring coach Bobby Moegle on his retirement as baseball coach of Lubbock's Monterey High School.

HCR 307 was adopted without objection.

On motion of Representative Junell, the names of all the members of the house were added to **HCR 307** as signers thereof.

SCR 66 - ADOPTED
(Hodge - House Sponsor)

Representative Hodge moved to suspend all necessary rules to take up and consider at this time **SCR 66**.

The motion prevailed without objection.

The following resolution was laid before the house:

SCR 66, Recognizing Hilmar G. Moore for 50 years as Mayor of Richmond, Texas.

SCR 66 was adopted without objection.

HCR 308 - ADOPTED
(by Heflin)

Representative Heflin moved to suspend all necessary rules to take up and consider at this time **HCR 308**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 308, Declaring the month of October "Czech Heritage Month" in Texas.

HCR 308 was adopted without objection.

HR 1231 - ADOPTED
(by Kuempel)

Representative Kuempel moved to suspend all necessary rules to take up and consider at this time **HR 1231**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1231, Honoring Terry K. Mayfield and Terry G. Mayfield for their significant contributions to the State Firemen and Fire Marshals' Association and the Texas Fireman's Auxiliary.

HR 1231 was adopted without objection.

HR 1239 - ADOPTED
(by McReynolds)

Representative McReynolds moved to suspend all necessary rules to take up and consider at this time **HR 1239**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1239, Recognizing the Texas Forest Festival as the Official State Forest Festival.

HR 1239 was adopted without objection.

HR 1028 - ADOPTED
(by Counts)

Representative Counts moved to suspend all necessary rules to take up and consider at this time **HR 1028**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1028, Honoring Knox County Judge David Perdue.

HR 1028 was read and was adopted without objection.

INTRODUCTION OF GUEST

The speaker recognized Representative Counts, who introduced Knox County Judge David Perdue.

**BILLS AND JOINT RESOLUTIONS ON FIRST READING
AND REFERRAL TO COMMITTEES
RESOLUTIONS REFERRED TO COMMITTEES**

Bills and joint resolutions were at this time laid before the house, read first time, and 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.)

RECESS

Representative Hill moved that the house recess until 2 p.m. today.

The motion prevailed without objection.

The house accordingly, at 12:45 p.m., recessed until 2 p.m. today.

AFTERNOON SESSION

The house met at 2 p.m. and was called to order by the speaker.

HR 1232 - ADOPTED

(by Uher)

The following privileged resolution was laid before the house:

HR 1232

BE IT RESOLVED by the House of Representatives of the State of Texas, 76th Legislature, Regular Session, 1999, 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 2175**, relating to the regulation of the practice of chiropractic, to consider and take actions on the following matter:

House Rule 13, Section 9(a)(1) is suspended to permit the committee to change the text of SECTION 4(a) of the bill to read as follows:

(a) Except as provided by Subsection (b) of this section, the remedy for an offense or violation under Section 5a(c) or 19, Chapter 94, Acts of the 51st Legislature, Regular Session, 1949 (Article 4512b, Vernon's Texas Civil Statutes), regardless of whether the offense or violation is committed before, on, or after the effective date of this Act, is the remedy provided by Section 5a(c), Chapter 94, Acts of the 51st Legislature, Regular Session, 1949 (Article 4512b, Vernon's Texas Civil Statutes), as amended by this Act.

Explanation: This change is necessary to conform the citations in the transitional material of the bill to the sections affected by the amendatory provisions of the bill.

HR 1232 was adopted without objection.

HB 713 - RECOMMITTED

Representative Cuellar moved to recommit **HB 713** to the conference committee.

The motion prevailed without objection.

HR 1236 - ADOPTED

(by Noriega)

The following privileged resolution was laid before the house:

HR 1236

BE IT RESOLVED by the House of Representatives of the State of Texas, 76th Legislature, Regular Session, 1999, 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 Senate Bill No. 1423, relating to providing supplemental financial assistance and services to certain grandparents, to consider and take action on the following matter:

House Rule 13, Sections 9(a)(1), (2), and (4), are suspended to permit the committee to amend Section 1 of the bill to read as follows:

SECTION 1. Subchapter A, Chapter 31, Human Resources Code, is amended by adding Section 31.0041 to read as follows:

Sec. 31.0041. SUPPLEMENTAL FINANCIAL ASSISTANCE FOR CERTAIN PERSONS. (a) To the extent funds are appropriated for this purpose, the department may provide supplemental financial assistance in addition to the amount of financial assistance granted for the support of a dependent child under Section 31.003 to a person who:

(1) is 50 years of age or older;

(2) is the grandparent of the dependent child, as defined by Section 31.002, who lives at the person's residence;

(3) is the primary caretaker of the dependent child;

(4) has a family income that is at or below 100 percent of the federal poverty level; and

(5) does not have resources that exceed the amount allowed for financial assistance under this chapter.

(b) Supplemental financial assistance provided to a person under this section may include one or more cash payments, not to exceed a total of \$1,000, after determination of eligibility for supplemental financial assistance under this section.

(c) The department shall inform an applicant for financial assistance under this chapter who meets the eligibility requirements under Subsection (a) of the availability of supplemental financial assistance.

(d) The department shall maintain complete records and compile statistics regarding the number of households that receive supplemental financial assistance under this section.

(e) After a person receives supplemental financial assistance under Subsection (b) on behalf of a dependent child, no other person is eligible under Subsection (a) to receive supplemental financial assistance on behalf of that child.

Explanation: This amendment is necessary to limit eligibility for supplemental financial assistance provided by Section 31.0041, Human Resources Code, as added by the bill, and to allow the Texas Department of Human Services to provide supplemental financial assistance to the extent funds are appropriated for that purpose.

HR 1236 was adopted without objection.

SB 216 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Walker submitted the conference committee report on **SB 216**.

Representative Walker moved to adopt the conference committee report on **SB 216**.

The motion prevailed without objection. (Clark recorded voting no)

REASON FOR VOTE

Someone who is 65 or over has earned an exemption if he or she wants to claim it. We should not take the exemption away.

Clark

SB 371 - RECOMMITTED

Representative Gray moved to recommit **SB 371** to the conference committee.

The motion prevailed without objection.

SB 730 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Van de Putte submitted the conference committee report on **SB 730**.

Representative Van de Putte moved to adopt the conference committee report on **SB 730**.

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 family business:

Smithee on motion of Eiland.

HR 1242 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1242**, suspending the limitations on the conferees for **HB 2997**.

SB 839 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Burnam submitted the conference committee report on **SB 839**.

Representative Burnam moved to adopt the conference committee report on **SB 839**.

The motion prevailed without objection.

HB 1975 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Swinford submitted the following conference committee report on **HB 1975**:

Austin, Texas, May 25, 1999

Honorable Rick Perry
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 1975** have met

and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Bivins	Swinford
Brown	Crownover
Ratliff	Christian
Duncan	Green
Armbrister	Van de Putte
On the part of the Senate	On the part of the House

HB 1975, A bill to be entitled An Act relating to the labeling requirements for drugs prescribed or dispensed for administration to animals in agricultural operations.

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

SECTION 2. Section 483.042, Health and Safety Code, is amended by adding Subsection (f) to read as follows:

(f) Provided all federal requirements are met, the labeling provisions of Subsection (a) do not apply to a dangerous drug prescribed or dispensed for administration to food production animals in an agricultural operation under a written medical directive or treatment guideline from a veterinarian licensed under The Veterinary Licensing Act (Article 8890, Revised Statutes) and its subsequent amendments.

SECTION 1. This Act takes effect September 1, 1999.

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.

Representative Swinford moved to adopt the conference committee report on **HB 1975**.

The motion prevailed without objection.

(Goolsby in the chair)

HB 2960 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Swinford submitted the following conference committee report on **HB 2960**:

Austin, Texas, May 25, 1999

Honorable Rick Perry
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 2960** 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

R. Lewis

Brown	Driver
Duncan	Williams
Bivins	Woolley
On the part of the Senate	On the part of the House

HB 2960, A bill to be entitled An Act relating to the evaluation of proposals for contracts by institutions of higher education for energy conservation measures.

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

SECTION 1. Section 51.927(h), Education Code, is amended to read as follows:

(h) A contract under this section may be let under competitive sealed proposal procedures. Notice of the request for proposals shall be given in the manner provided for in Chapter 2156, Government Code. The Texas Higher Education Coordinating Board, in consultation with the State Energy Conservation Office and the Texas Energy Coordination Council with regard to energy conservation measures, shall establish guidelines and an approval process for contracts awarded under this section. The guidelines must require that the cost savings projected by an offeror be reviewed by a licensed professional engineer who is not an officer or employee of an offeror for the contract under review or otherwise associated with the contract. An engineer who reviews a contract shall maintain the confidentiality of any proprietary information the engineer acquires while reviewing the contract. A contract is not required to be reviewed or approved by the State Energy Conservation Office or Texas Energy Coordination Council. Section 19, The Texas Engineering Practice Act (Article 3271a, Vernon's Texas Civil Statutes), applies to work performed under the contract. [The State Energy Conservation Office and the Texas Energy Coordination Council shall review the selected proposal before a contract is awarded. The State Energy Conservation Office may provide a cost-benefit analysis of the proposals and analysis of the guaranteed savings projected by offerors and may charge a fee for this service.] The contract shall be awarded to the responsible offeror whose proposal, following negotiations, is determined by the institution to be the most advantageous to the institution considering the guaranteed savings and other evaluation factors set forth in the request for proposals, except that if the institution finds that no offer is acceptable, it shall refuse all offers.

SECTION 2. This Act takes effect September 1, 1999.

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 Swinford moved to adopt the conference committee report on **HB 2960**.

The motion prevailed without objection.

(Goolsby in the chair)

**HB 424 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative B. Turner called up with senate amendments for consideration at this time,

HB 424, A bill to be entitled An Act relating to the distribution of money to certain counties for the payment of extraordinary costs of prosecution.

On motion of Representative B. Turner, the house concurred in the senate amendments to **HB 424**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 424** as follows:

1. In SECTION 1 of the bill, adding Article 104.004, Code of Criminal Procedure, by striking "shall" and inserting "may" in lieu thereof.

2. In SECTION 1 of the bill, adding Article 104.004, Code of Criminal Procedure, by striking "as provided by this article from money appropriated by the legislature for that purpose" and substituting the following in lieu thereof:

appropriated by the legislature for this purpose

**HB 571 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Hupp called up with senate amendments for consideration at this time,

HB 571, A bill to be entitled An Act relating to information collected and used in connection with a driver's license or identification certificate; providing a penalty.

Representative Hupp moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 571**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 571**: Hupp, chair, Keel, Najera, P. King, and B. Turner.

**HB 731 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Thompson called up with senate amendments for consideration at this time,

HB 731, A bill to be entitled An Act relating to municipal courts of record.

On motion of Representative Thompson, the house concurred in the senate amendments to **HB 731**.

Senate Amendment No. 1

Amend **HB 731** as follows:

(1) In SECTION 1 of the bill, in Section 30.00008, Government Code (Senate Committee Printing, page 3, line 45), strike "appoint" and substitute "or charter provide for the appointment of [appoint]".

(2) In SECTION 1 of the bill, in added Section 30.000085, Government Code (Senate Committee Printing, page 4, lines 3-4), strike "members of the governing body in the charter or ordinances of the municipality" and substitute "judges in the charter of the municipality or, if the charter does not provide for the removal of judges, as provided by Section 1-a, Article V, Texas Constitution, or by the procedure provided for the removal of mayors and aldermen in a general-law municipality in Section 21.002, Local Government Code".

(3) In SECTION 1 of the bill, in added Section 30.000126, Government Code (Senate Committee Printing, page 5, lines 32-33), strike "Article 27.14, Code of Criminal Procedure, and".

(4) In SECTION 1 of the bill, in added Section 30.000126, Government Code (Senate Committee Printing, page 5, line 33), strike "Chapter 45" and substitute "Chapters 27 and 45".

(5) In SECTION 13 of the bill, between the first and second sentences of Section 30.00145, Government Code (Senate Committee Printing, page 11, line 7), insert "The state has the right of appeal as provided by Article 44.01, Code of Criminal Procedure."

(6) In SECTION 20 of the bill, in the introductory language of the SECTION (Senate Committee Printing, page 11, line 65), strike "Subsection (k)" and substitute "Subsections (k) and (l)".

(7) In SECTION 20 of the bill, after added Section 30.00224(k), Government Code (Senate Committee Printing, page 12, between lines 9 and 10), insert the following:

(1) In addition to the duties imposed under Sections 30.00007(b)(1)-(4), the presiding judge shall promulgate work rules for the administration of the municipal courts.

(8) Strike SECTION 21 of the bill (Senate Committee Printing, page 12, lines 10-12) and substitute the following:

SECTION 21. Section 30.00225, Government Code, is amended by adding Subsection (c) to read as follows:

(c) Sections 30.00009(c) and (d) do not apply to this subchapter.

(9) In SECTION 64 of the bill, in added Section 30.00674(i), Government Code (Senate Committee Printing, page 17, line 53), strike "Section 30.00007(b)(5) does" and substitute "Sections 30.00007(b)(5) and 30.000085 do".

(10) In SECTION 83 of the bill, in added Section 30.00894(g), Government Code (Senate Committee Printing, page 19, line 68), strike "Section 30.00007(b)(5) does" and substitute "Sections 30.00007(b)(5) and 30.00008(b) do".

(11) In SECTION 84 of the bill (Senate Committee Printing, page 20, lines 3-14), strike amended Section 30.00895, Government Code, and substitute the following:

Sec. 30.00895. CLERK. ~~(a) The city manager[, with the consent of the governing body of the city,]~~ shall appoint a clerk of the municipal courts of record. The clerk or the clerk's deputies shall keep the records of the municipal courts of record, issue process, and generally perform the duties for the courts that a clerk of a county court exercising criminal jurisdiction is required by law to perform for that court. The clerk shall perform the duties in accordance with statutes, the city charter, and city ordinances.

(b) Sections 30.00009(a), (c), and (d) do not apply to this subchapter.

(12) Strike SECTION 114 of the bill (Senate Committee Printing, page 24, lines 40-49) and substitute the following:

SECTION 114. Section 30.01216(a), Government Code, is amended to read as follows:

~~(a) [A municipal court of record is presided over by a municipal judge. The municipal judge must be a licensed attorney in good standing in this state. The judge must be a citizen of the United States and resident of this state but need not be a resident of the city.]~~ The municipal judge shall devote as much ~~[full]~~ time as necessary to perform the duties of the office ~~[as necessary]~~.

(13) Strike SECTION 115 of the bill (Senate Committee Printing, page 24, lines 50-52).

(14) Strike SECTION 132 of the bill (Senate Committee Printing, page 26, lines 67-69) and substitute the following:

SECTION 132. Section 30.01406, Government Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) A municipal judge is entitled to receive compensation or a salary and other benefits set by the governing body of the city. The judge's compensation or salary may not be diminished during the term of office. The compensation or salary may not be based directly or indirectly on fines, fees, or other costs that the municipal judge is required by law to collect during a term of office.

(d) Section 30.00007 does not apply to this subchapter.

(15) In SECTION 134 of the bill, in the introductory language of the SECTION (Senate Committee Printing, page 27, line 9), between "by" and "adding", insert "amending Subsection (e) and".

(16) In SECTION 134 of the bill, between the introductory language and added Section 30.01446(f), Government Code (Senate Committee Printing, page 27, between lines 9 and 10), insert the following:

(e) A municipal judge is entitled to compensation or a salary and other benefits set by the governing body of the city. The governing body may not base the compensation or salary directly or indirectly on fines, fees, or costs collected by the court.

(17) In SECTION 137 of the bill, between added Sections 30.01751 and 30.01752, Government Code (Senate Committee Printing, page 29, between lines 34 and 35), insert the following:

Sec. 30.017515. JUDGE. (a) A municipal court of record is presided over by a municipal judge.

(b) A municipal judge is appointed by the mayor with the concurrence of the governing body of the municipality and serves at the pleasure of the governing body.

(c) A municipal judge shall:

(1) devote as much time to the office as necessary; and

(2) take judicial notice of state law, municipal ordinances, and the corporate limits of the municipality.

(d) If there is more than one municipal judge appointed under Subsection (b), the mayor shall appoint one of the judges as the presiding municipal judge.

(e) A municipal judge is entitled to a salary from the municipality, the amount of which is determined by the governing body of the municipality. The amount of a municipal judge's salary may not be based directly or indirectly on fines, fees, or costs collected by the court.

(18) In SECTION 138 of the bill, in Subdivision (1) (Senate Committee Printing, page 29, line 44), strike "and 30.00047-30.00062" and substitute "30.00047, 30.00048, and 30.00050-30.00062".

(19) In SECTION 138 of the bill, in Subdivision (3) (Senate Committee Printing, page 29, lines 47-48), strike "(h), and (i)" and substitute "(h)-(k)".

(20) In SECTION 138 of the bill, in Subdivision (5) (Senate Committee Printing, page 29, line 52), strike "and 30.00227-30.00242" and substitute "30.00227, 30.00228, 30.00229(a)-(d), and 30.00230-30.00242".

(21) In SECTION 138 of the bill, in Subdivision (17) (Senate Committee Printing, page 30, line 6), strike "30.00674(a)-(h)" and substitute "30.00674(a)-(f) and (h)".

(22) In SECTION 138 of the bill, in Subdivision (36) (Senate Committee Printing, page 30, line 44), strike "30.01406(a)-(c)" and substitute "30.01406(a) and (b)".

(23) In SECTION 138 of the bill, in Subdivision (37) (Senate Committee Printing, page 30, line 46), strike "30.01446(a)-(e)" and substitute "30.01446(a)-(d)".

(24) Add the following appropriately numbered SECTIONS to the bill:

SECTION _____. Section 30.01148, Government Code, is amended by adding Subsection (d) to read as follows:

(d) Section 30.00009(c) does not apply to this subchapter.

SECTION _____. Section 30.01408, Government Code, is amended by adding Subsection (d) to read as follows:

(d) Section 30.00009(c) does not apply to this subchapter.

(25) Renumber the remaining SECTIONS of the bill accordingly.

SB 287 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Kuempel submitted the conference committee report on **SB 287**.

Representative Kuempel moved to adopt the conference committee report on **SB 287**.

The motion prevailed without objection.

HB 618 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Dukes called up with senate amendments for consideration at this time,

HB 618, A bill to be entitled An Act relating to written notice from superintendents to parents on whether teachers are appropriately certified by the state.

On motion of Representative Dukes, the house concurred in the senate amendments to **HB 618** by (Record 495): 140 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hunter; Hupp; Isett; Janek; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbrank.

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

Absent, Excused — Corte; Crownover; Jones, D.; Smithee.

Absent — Ellis; Howard; Jones, C.; Reyna, A.

Senate Committee Substitute

CSHB 618, A bill to be entitled An Act relating to parental notification of the employment of an inappropriately certified or uncertified teacher.

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

SECTION 1. Subchapter B, Chapter 21, Education Code, is amended by adding Section 21.057 to read as follows:

Sec. 21.057. PARENTAL NOTIFICATION. (a) A school district that assigns an inappropriately certified or uncertified teacher to the same classroom for more than 30 consecutive instructional days during the same school year shall provide written notice of the assignment to a parent or guardian of each student in that classroom.

(b) The superintendent of the school district shall provide the notice required by Subsection (a) not later than the 30th instructional day after the date of the assignment of the inappropriately certified or uncertified teacher.

(c) The school district shall:

(1) make a good-faith effort to ensure that the notice required by this section is provided in a bilingual form to any parent or guardian whose primary language is not English;

(2) retain a copy of any notice provided under this section; and

(3) make information relating to teacher certification available to the public on request.

(d) For purposes of this section, "inappropriately certified or uncertified teacher":

(1) includes:

(A) an individual serving on an emergency certificate issued under Section 21.041(b)(2); or

(B) an individual who does not hold any certificate or permit issued under this chapter and is not employed as specified by Subdivision (2)(E); and

(2) does not include an individual:

(A) who is a certified teacher assigned to teach a class or classes outside his or her area of certification, as determined by rules proposed by the board in specifying the certificate required for each assignment;

(B) serving on a certificate issued due to a hearing impairment under Section 21.048;

(C) serving on a certificate issued pursuant to enrollment in an approved alternative certification program under Section 21.049;

(D) certified by another state or country and serving on a certificate issued under Section 21.052;

(E) serving on a school district teaching permit issued under Section 21.055; or

(F) employed under a waiver granted by the commissioner pursuant to Section 7.056.

SECTION 2. This Act takes effect beginning with the 1999-2000 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.

HB 749 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Van de Putte called up with senate amendments for consideration at this time,

HB 749, A bill to be entitled An Act relating to the sale of certain items at a flea market; providing a penalty.

On motion of Representative Van de Putte, the house concurred in the senate amendments to **HB 749**.

Senate Committee Substitute

CSHB 749, A bill to be entitled An Act relating to the sale of certain items at a flea market; providing a penalty.

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

SECTION 1. Subchapter D, Chapter 35, Business & Commerce Code, is amended by adding Section 35.55 to read as follows:

Sec. 35.55. SALE OF ITEMS AT FLEA MARKET. (a) In this section, "flea market" means a location at which booths or similar spaces are rented or otherwise made available temporarily to two or more persons and at which the persons offer tangible personal property for sale.

(b) In addition to any other sanctions provided by law, a person commits an offense if the person sells or offers for sale at a flea market:

(1) infant formula or baby food of a type usually consumed by children younger than two years of age;

(2) a drug, as defined by Section 431.002, Health and Safety Code;

or

(3) contact lenses, including disposable contact lenses.

(c) A person does not commit an offense under this section solely because the person provides spaces at a flea market.

(d) It is a defense to prosecution under Subsection (b) that:

(1) the person selling the item:

(A) is authorized in writing to sell the item at retail by the manufacturer of the item or the manufacturer's authorized distributor;

(B) the authorization states the person's name; and

(C) the person provides for examination the authorization to any person at the flea market who requests to see the authorization; or

(2) only a sample of the item or a catalog or brochure displaying the item was available at the flea market and the item sold was not delivered to the buyer at the flea market.

(e) A person commits an offense if the person provides to another person an authorization under Subsection (d)(1) and:

(1) the authorization is forged or contains a false statement; or

(2) the person displaying the authorization obtained the authorization by fraud.

(f) An offense under this section is a misdemeanor punishable by a fine of not more than \$100.

(g) A law enforcement agency investigating a violation of this section shall maintain a record of the investigation. The record is public information.

(h) This section does not apply to the sale or offer for sale of a nutritional supplement or vitamin.

SECTION 2. This Act takes effect September 1, 1999.

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.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 33).

HB 1014 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Oliveira called up with senate amendments for consideration at this time,

HB 1014, A bill to be entitled An Act relating to use of state and municipal hotel occupancy tax revenue to clean and maintain beaches in certain municipalities.

On motion of Representative Oliveira, the house concurred in the senate amendments to **HB 1014**.

Senate Committee Substitute

CSHB 1014, A bill to be entitled An Act relating to state and municipal hotel occupancy tax revenue.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Subchapter F, Chapter 156, Tax Code, is amended by adding Section 156.2512 to read as follows:

Sec. 156.2512. ALLOCATION OF REVENUE TO CERTAIN MUNICIPALITIES. (a) Not later than the last day of the month following a calendar quarter, the comptroller shall:

(1) compute the amount of revenue derived from the collection of taxes imposed under this chapter at a rate of one percent and received from hotels located in an eligible general-law coastal municipality; and

(2) issue to the eligible general-law coastal municipality a warrant drawn on the general revenue fund in the amount computed under Subdivision (1).

(b) An eligible general-law coastal municipality may use money received under this section only to clean and maintain public beaches in that municipality.

(c) In this section:

(1) "Eligible general-law coastal municipality" means a general-law municipality:

(A) that has a population of less than 5,000;

(B) that borders on the Gulf of Mexico; and

(C) the boundaries of which are within 30 miles of the United Mexican States.

(2) "Clean and maintain" has the meaning assigned by Section 61.063, Natural Resources Code.

SECTION 2. Section 156.102, Tax Code, is amended to read as follows:

Sec. 156.102. EXCEPTION—RELIGIOUS, CHARITABLE, OR EDUCATIONAL ORGANIZATION. (a) This chapter does not impose a tax on a corporation or association that is organized and operated exclusively for a religious, charitable, or educational purpose if no part of the net earnings of the corporation or association inure to the benefit of a private shareholder or individual.

(b) For purposes of this section:

(1) a corporation or association that is organized and operated exclusively for the cleaning of beaches and that has no part of its net earnings inure to the benefit of a private shareholder or individual is organized and operated exclusively for a charitable purpose; and

(2) a public or private institution of higher education is organized and operated exclusively for an educational purpose only if the institution is defined as an institution of higher education in this state or as a private

or independent institution of higher education under any subdivision of Section 61.003, Education Code.

SECTION 3. Subchapter B, Chapter 351, Tax Code, is amended by adding Section 351.1055 to read as follows:

Sec. 351.1055. ALLOCATION OF REVENUE: CERTAIN HOME-RULE MUNICIPALITIES. (a) In this section:

(1) "Clean and maintain" has the meaning assigned by Section 61.063, Natural Resources Code.

(2) "Public beach" has the meaning assigned by Section 61.001, Natural Resources Code.

(b) Notwithstanding any other provision of this chapter, a home-rule municipality that borders the Gulf of Mexico and has a population of more than 250,000 may use all or any portion of the revenue derived from the municipal hotel occupancy tax from hotels previously subject to a county hotel occupancy tax to clean and maintain public beaches in the municipality.

SECTION 4. This Act does not apply to the use of tax revenue pledged to secure bonds issued before the effective date of this Act. Tax revenue pledged to secure bonds issued before the effective date of this Act is governed by the law in effect on the date the bonds were issued, and that law is continued in effect for that purpose.

SECTION 5. This Act takes effect September 1, 1999.

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.

Senate Amendment No. 1

Amend **CSHB 1014**, in SECTION 2 of the bill, in added Section 156.102(b)(2), Tax Code (Senate Committee Report, page 1, lines 52-53), by striking "defined as an institution of higher education in this state or as a private or independent institution" and substituting "defined as a Texas institution of higher education or as a Texas private or independent institution".

HB 1052 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Brimer called up with senate amendments for consideration at this time,

HB 1052, A bill to be entitled An Act relating to creating a real estate broker's and appraiser's lien on commercial real estate; providing a penalty.

On motion of Representative Brimer, the house concurred in the senate amendments to **HB 1052**.

Senate Amendment No. 1

Amend **HB 1052** by striking all below the enacting clause and substituting the following:

SECTION _____. Subtitle B, Title 5, Property Code, is amended by adding Chapter 62 to read as follows:

CHAPTER 62. BROKER'S AND APPRAISER'S LIEN ON COMMERCIAL REAL ESTATE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 62.001. SHORT TITLE. This chapter may be cited as the Broker's and Appraiser's Lien on Commercial Real Estate Act.

Sec. 62.002. APPLICABILITY. (a) This chapter applies only to real estate that is commercial real estate on the date the notice of lien is filed under this chapter.

(b) This chapter does not apply to:

(1) a transaction involving a claim for a commission of \$2,500 or less in the aggregate; or

(2) a transaction for the sale of commercial real estate involving a claim for a commission of \$5,000 or less in the aggregate if the commercial real estate:

(A) is the principal place of business of the record title owner;

(B) is occupied by more than one and fewer than five tenants; and

(C) is improved with 7,500 square feet or less of total gross building area.

Sec. 62.003. DEFINITIONS. In this chapter:

(1) "Broker" means a person who:

(A) is licensed as a real estate broker under The Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes) and is not acting as a residential rental locator as defined by Section 24, The Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes); or

(B) is licensed or certified as a real estate appraiser under the Texas Appraiser Licensing and Certification Act (Article 6573a.2, Vernon's Texas Civil Statutes).

(2) "Commercial real estate" means all real estate except:

(A) real estate improved with one to four residential units;

(B) a single-family residential unit, including a condominium, townhouse, or home in a subdivision, if the unit is sold, leased, or otherwise conveyed on a unit-by-unit basis and regardless of whether the unit is part of a larger building or located on real estate containing more than four residential units;

(C) real estate that is or includes on the real estate a person's homestead;

(D) real estate that is not improved with a structure and is:

(i) zoned for single-family residential use; or

(ii) restricted for single-family use under restrictive covenants that will remain in effect for at least the next two years; or

(E) real estate that:

(i) is primarily used for farming and ranching purposes;

(ii) will continue to be used primarily for farming and ranching purposes; and

(iii) is located more than three miles from the corporate boundaries of any municipality.

(3) "Commission" includes a fee or other valuable consideration.

(4) "Commission agreement" means a written instrument that:

(A) entitles a broker to a commission;

(B) is signed by the person obligated to pay the commission or that person's authorized agent;

(C) references the commission amount or describes the formula used to determine the commission amount; and

(D) contains a description legally sufficient for identification of the real estate interest that is the subject of the agreement if the person obligated to pay the commission is a seller or lessor.

(5) "Deferred commission" means a commission that is earned and is not yet payable.

(6) "Real estate" has the meaning assigned by Section 2, The Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes).

Sec. 62.004. PAYABLE COMMISSION AND EARNED COMMISSION.

(a) A commission is payable at the time provided in the commission agreement. If payment of the commission is conditioned on the occurrence of an event and that event does not occur, the person obligated to pay the commission is not required to pay the commission.

(b) Except as provided by Subsection (c), a commission is earned on the earlier of the date that:

(1) an event occurs that, under the commission agreement, defines when the commission is earned; or

(2) the person obligated to pay the commission enters into a purchase contract or a lease during the period prescribed by the commission agreement for all or part of the commercial real estate if the purchase contract or lease is contemplated by the commission agreement and if the parties to the purchase contract or lease are contemplated by the commission agreement.

(c) If a broker has earned a commission under a commission agreement relating to a lease transaction and the commission agreement provides that the broker may receive an additional commission when the lease is modified to expand the lease space or renewed, the additional commission is earned when:

(1) the broker performs all the additional services relating to the lease modification or renewal expressly prescribed by the commission agreement; or

(2) the broker first earned a commission under the commission agreement if the commission agreement does not expressly require the broker to perform additional services relating to a lease modification or renewal.

Sec. 62.005. BROKER'S ADDRESS FOR RECEIPT OF NOTICE. A seller, lessor, buyer, or tenant shall send any notice required to be sent to the broker under this chapter to the broker:

(1) at the broker's address as reflected in the records of the Texas Real Estate Commission; and

(2) at the broker's last address that the broker furnished the seller, lessor, buyer, or tenant by certified mail, return receipt requested, if the broker's license is expired.

[Sections 62.006-62.020 reserved for expansion]

SUBCHAPTER B. BROKER'S LIEN

Sec. 62.021. PERSON ENTITLED TO LIEN. (a) A broker has a lien on a seller's or lessor's commercial real estate interest in the amount specified by the commission agreement if:

(1) the broker has earned a commission under a commission agreement signed by the seller or lessor of the commercial real estate interest or the seller's or lessor's authorized agent; and

(2) a notice of lien is recorded and indexed as provided by Section 62.024.

(b) A broker has a lien on the commercial real estate interest purchased by a prospective buyer in the amount specified by the commission agreement if:

(1) the broker has earned a commission under a commission agreement signed by the prospective buyer of the commercial real estate interest or the prospective buyer's authorized agent; and

(2) a notice of lien is recorded and indexed as provided by Section 62.024.

(c) A broker has a lien on the leasehold interest in the commercial real estate that a prospective tenant leases in the amount specified by the commission agreement if:

(1) the broker has earned a commission under a commission agreement signed by the prospective tenant of the commercial real estate interest or the prospective tenant's authorized agent; and

(2) a notice of lien is recorded and indexed as provided by Section 62.024.

(d) A lien described by this section is available only to the broker named in the commission agreement. The lien is not available to an employee or independent contractor of the broker.

(e) The broker's right to claim a lien based on the commission agreement must be disclosed in the commission agreement.

Sec. 62.022. WAIVER, RELEASE, OR DISCHARGE OF LIEN; ASSUMPTION OF COMMISSION OBLIGATION. (a) Except as provided by Subsection (b), the waiver of a broker's right to a lien under this chapter, or a release given for the purpose of releasing the broker's lien before the commission is satisfied or forgiven, is void.

(b) A broker's entitlement to a lien on the interest of an owner or tenant in commercial real estate shall be automatically waived if:

(1) the commission is earned and payable for services provided relating to a lease transaction; and

(2) the commission agreement is included as a provision of the lease agreement.

(c) A lien under this chapter is discharged by:

(1) a court order discharging the lien;

(2) paying the commission to the broker named in the commission agreement; or

(3) establishing an escrow account described by Subchapter F.

(d) A person who assumes an owner's or tenant's commercial real estate interest is bound by a commission agreement included in a lease agreement

unless an escrow account is established under Subchapter F or a bond is provided under Subchapter G.

(e) This section does not affect the rights of a mortgagee who forecloses on commercial real estate and does not assume the lease on which a commission agreement is based.

Sec. 62.023. AFFIDAVIT IDENTIFYING BROKER. If requested by the buyer, the buyer's authorized agent, or the escrow agent for the commercial real estate transaction, the seller of commercial real estate and the broker representing the seller shall provide to the requesting party before the closing of the transaction a written affidavit identifying each broker with whom the affiant knows or believes the seller or the seller's authorized agent has signed a commission agreement under which a commission is claimed or earned and has not been paid.

Sec. 62.024. FILING OF NOTICE OF LIEN. (a) A broker claiming a lien under this chapter may not file a notice of lien unless the commission on which the lien is based is earned.

(b) A broker claiming a lien under this chapter must file a notice of lien as provided by Subchapter C with the county clerk of the county in which the commercial real estate is located.

(c) The county clerk shall record the notice of lien in records kept for that purpose and shall index and cross-index the notice of lien in the names of the broker, each person obligated to pay the commission under the commission agreement, and each person who owns an interest in the commercial real estate if the broker claims a lien on that interest.

Sec. 62.025. CONTENTS OF NOTICE OF LIEN. The notice of lien must be signed by the broker or by a person authorized to sign on behalf of the broker and must contain the following:

(1) a sworn statement of the nature and amount of the claim, including:

(A) the commission amount or the formula used to determine the commission;

(B) the type of commission at issue, including a deferred commission; and

(C) the month and year in which the commission was earned;

(2) the name of the broker and the real estate license number of the broker;

(3) the name as reflected in the broker's records of any person who the broker believes is obligated to pay the commission under the commission agreement;

(4) the name as reflected in the broker's records of any person the broker believes to be an owner of the commercial real estate interest on which the lien is claimed;

(5) a description legally sufficient for identification of the commercial real estate interest sought to be charged with the lien;

(6) the name of any cooperating broker or principal in the transaction with whom the broker intends to share the commission and the dollar or percentage amount to be shared; and

(7) a copy of the commission agreement on which the lien is based.

Sec. 62.026. NOTICE OF FILING. (a) In this section, "business day" means a day other than a Saturday, Sunday, or holiday recognized by this state.

(b) Not later than one business day after the date the broker files a notice of lien, the broker shall mail a copy of the notice of lien by certified mail, return receipt requested, or registered mail to:

(1) the owner of record of the commercial real estate interest on which the lien is claimed or the owner's authorized agent; and

(2) the prospective buyer or tenant and any escrow agent named in a contract for the sale or lease of the commercial real estate interest on which the lien is claimed if:

(A) a binding written contract for the sale or lease of the commercial real estate interest is in effect between the owner and the prospective buyer or tenant in a transaction that is the basis for the commission; and

(B) the binding written contract was executed by the owner and the prospective buyer or tenant before the date the notice of lien is filed.

(c) Service of the notice under Subsection (b) is complete when the notice is deposited in the United States mail, postage prepaid, and addressed to the persons entitled to receive the notice under this section.

(d) If the broker has actual knowledge of the identity of the escrow agent named in the contract for the sale or lease of the commercial real estate interest on which the broker claims a lien or of the escrow agent otherwise closing the sale or lease of the commercial real estate interest, the broker, before the first business day before the date that the sale or lease is closed on commercial real estate for which a notice of lien is filed, shall deliver a file-stamped copy or transmit a facsimile of a file-stamped copy of the notice of lien to each escrow agent at the office in which the closing of the sale or lease will occur for use during the closing of the sale or lease. The broker shall deliver the copy or transmit the facsimile directly to the individual escrow agent responsible for closing the sale or lease if the broker knows that person's name.

(e) If the escrow agent receives the notice of lien, the escrow agent and other parties to the sale or lease may not close the transaction unless the lien is released, the prospective buyer or tenant purchases or leases the property subject to the lien, the funds are held in escrow as provided by Subchapter F, or a bond is filed as provided by Subchapter G.

(f) If the broker fails to comply with this section, the notice of lien is void.

Sec. 62.027. INCEPTION OF BROKER'S LIEN. (a) A broker's lien attaches to the commercial real estate interest owned by the person obligated to pay the commission on the date the notice of lien is recorded as provided by this chapter. The lien does not relate back to the date of the commission agreement.

(b) A notice of lien for amounts earned by the broker under an installment contract or under a commission agreement for a deferred commission is enforceable only to the extent that the installment or commission has become payable.

Sec. 62.028. PRIORITY. (a) A recorded lien, mortgage, or other encumbrance on commercial real estate, including a recorded lien securing revolving credit and future advances for a loan, recorded before the date a broker's lien is recorded has priority over the broker's lien.

(b) A broker's lien on the commercial real estate interest of a person obligated to pay a commission is not valid or enforceable against a grantee, buyer, lessee, or transferee of the interest of the person obligated to pay the commission if the deed, lease, or instrument transferring the interest is recorded before the notice of the broker's lien is recorded.

(c) A purchase-money mortgage lien executed by the buyer of the commercial real estate interest has priority over a broker's lien claimed for the commission owed by the buyer against the commercial real estate interest purchased by the buyer.

(d) A mechanic's lien that is recorded after a broker's lien and that relates back to a date before the date the broker's lien is recorded has priority over the broker's lien.

Sec. 62.029. SUBORDINATION. (a) If the person obligated to pay the commission sells that person's commercial real estate interest, the broker's lien is subordinate to a recorded purchase-money first lien authorized by the buyer if the buyer:

(1) executes and files with the county clerk of the county in which the broker's lien is filed a memorandum that evidences the buyer's acknowledgment of the existence of the broker's lien; and

(2) sends the broker, by certified mail, return receipt requested, or registered mail, a copy of the recorded memorandum required by this subsection.

(b) If the person obligated to pay the commission refinances a recorded first lien secured by that person's commercial real estate interest, the broker's lien is subordinate to the recorded refinanced first lien, regardless of the amount of the first lien after refinancing, if the person obligated to pay the commission:

(1) executes and files with the county clerk of the county in which the broker's lien is filed a memorandum that evidences the person's acknowledgment of the existence of the broker's lien; and

(2) sends the broker, by certified mail, return receipt requested, or registered mail, a copy of the recorded memorandum required by this subsection.

(c) If the person obligated to pay the commission obtains an extension of credit secured by that person's commercial real estate interest, the broker's lien is subordinate to the lien securing the extension of credit if, according to the loan documents, the extension of credit is made only for the purpose of:

(1) repairing or renovating the commercial real estate; or

(2) completing construction or providing additional improvements on the commercial real estate.

(d) If the person obligated to pay the commission furnishes a subordination agreement as provided by this section to be executed by the broker, the broker must:

(1) execute and acknowledge the subordination agreement before a notary public; and

(2) return the subordination agreement to the person not later than the seventh day after the date the broker receives the subordination agreement and other documents the broker reasonably requests in order to determine that the subordination agreement complies with this section.

Sec. 62.030. MIXED-USE REAL ESTATE. If real estate is zoned or restricted for more than one use, the broker's lien attaches only to the portions of the real estate that constitute commercial real estate.

Sec. 62.031. CHANGE IN USE OF REAL ESTATE. (a) Except as provided by Subsection (b), any change in the use of the real estate does not affect a broker's lien if the notice of the lien was filed when the real estate was commercial real estate.

(b) The broker's lien is extinguished if:

(1) not later than the 360th day after the date on which the broker's commission is payable, the commercial real estate interest on which a broker claims a lien is zoned for single-family use or restricted for single-family use under recorded restrictive covenants; and

(2) the zoning ordinances or restrictive covenants for single-family use are in effect until at least the second anniversary of the date the commission is payable.

[Sections 62.032-62.040 reserved for expansion]

SUBCHAPTER C. TIME FOR FILING NOTICE OF LIEN

Sec. 62.041. TIME TO FILE. (a) If a broker has earned a commission under a commission agreement signed by a seller or the seller's authorized agent, a broker must record a notice of lien:

(1) after the commission is earned; and

(2) before the conveyance of the commercial real estate interest on which the broker is claiming a lien.

(b) If a broker has earned a commission under a commission agreement signed by a prospective buyer or a prospective buyer's authorized agent, the broker must record a notice of lien:

(1) after the buyer acquires legal title to the commercial real estate interest on which the broker is claiming a lien; and

(2) before the buyer conveys the buyer's commercial real estate interest on which the broker is claiming a lien.

(c) If the lien is based on a lease transaction, the broker must record a notice of lien after the commission is earned and before the earlier of:

(1) the 91st day after the date the event for which the commission becomes payable occurs; or

(2) the date the person obligated to pay the commission records a subsequent conveyance of that person's commercial real estate interest after executing the lease agreement relating to the lease transaction for which the lien is claimed.

(d) If a notice of lien is not filed within the time required by this section, the lien is void.

[Sections 62.042-62.060 reserved for expansion]

SUBCHAPTER D. ENFORCEMENT OF LIEN

Sec. 62.061. SUIT TO FORECLOSE LIEN. (a) A broker may not bring a

suit to foreclose a lien under this chapter unless the commission is earned and payable. A broker may bring a suit to foreclose a lien in any district court for the county in which the commercial real estate is located by filing a sworn complaint stating that the notice of lien has been recorded.

(b) A complaint in a suit filed under this section must contain:

(1) a brief description of the commission agreement that is the basis for the lien, including:

(A) a description of the disclosure of the broker's right to the lien contained in the commission agreement;

(B) the date on which the commission agreement was executed;

(C) the event for which a commission is considered to be earned; and

(D) the event for which a commission is considered to be payable;

(2) a description of the services performed by the broker;

(3) the amount of the payable commission that is unpaid;

(4) a description of the commercial real estate to which the lien attaches; and

(5) other facts necessary for a full understanding of the rights of the parties.

(c) The broker must include as a defendant in a suit brought under this subchapter each person the broker believes to have an interest in the commercial real estate that is subordinate to or encumbered by the broker's lien.

(d) If the broker and a person against whom the broker claims a commission use alternative dispute resolution procedures to resolve a dispute concerning entitlement to the broker's commission, the broker's lien remains valid, and any suit to foreclose the lien is stayed until the alternative dispute resolution process is completed.

Sec. 62.062. STATUTE OF LIMITATIONS. (a) Except as provided by this section, a broker claiming a lien under this chapter must bring a suit to foreclose the lien on or before the second anniversary of the date the notice of lien is recorded.

(b) A broker claiming a lien to collect a deferred commission must bring a suit to foreclose the lien on or before the earlier of:

(1) the second anniversary of the date on which the commission is payable; or

(2) the 10th anniversary of the date the lien is recorded or the 10th anniversary of the date the broker records a subsequent notice of the lien as a renewal of the broker's right to the lien, whichever date is later.

(c) A renewal of a notice of lien must state that it is a renewal of the broker's lien and must be recorded after the ninth anniversary after the date the original notice of lien or last renewal notice is recorded and on or before the 10th anniversary of the date the original notice of lien or last renewal notice is recorded.

(d) A broker claiming a lien for a commission that is payable must bring a suit to foreclose the lien not later than the 30th day after the date the

broker receives a written demand to bring a suit to foreclose the lien from the owner of the commercial real estate interest on which the lien is claimed.

(e) If a suit to foreclose the lien is not brought within the period prescribed by this section, the lien is void.

Sec. 62.063. ASSESSMENT OF COSTS, FEES, AND INTEREST. The prevailing party in a suit brought under this subchapter is entitled to court costs, reasonable attorney's fees, and prejudgment interest from the date the commission becomes payable or the date the damage accrues.

[Sections 62.064-62.080 reserved for expansion]

SUBCHAPTER E. RELEASE OF LIEN

Sec. 62.081. RELEASE OF LIEN. (a) Not later than the fifth day after the date a broker receives a written request from the owner of a commercial real estate interest on which a lien is claimed, the broker shall furnish to the owner a release of indebtedness and any lien claimed if:

(1) the debt that is the basis for the lien is satisfied; or

(2) the lien is discharged under Section 62.022, rendered void under Section 62.026 or 62.062, or extinguished under Section 62.031.

(b) When a condition occurs that would preclude the broker from receiving a commission under the terms of the commission agreement that is the basis for the lien, the broker shall, not later than the 10th day after the date the broker receives a written request from the owner of the commercial real estate interest on which the lien is claimed, furnish to the owner a release of indebtedness and any lien claimed.

(c) Not later than the 10th day after the date a broker receives a written request for the release of the broker's lien from the escrow agent responsible for closing the purchase and sale of a commercial real estate interest on which the lien is claimed, the broker shall furnish to the escrow agent a release of indebtedness and any lien claimed if:

(1) the commercial real estate interest to which the lien attaches is subject to a contract for purchase and sale;

(2) the release of indebtedness and any lien claimed is conditioned on the closing of the transaction; and

(3) the broker would otherwise be obligated to release the indebtedness and any lien claimed under Subsection (a) or (b) on the closing of the transaction.

(d) A release of lien must be in a form that permits the instrument to be filed of record.

[Sections 62.082-62.100 reserved for expansion]

SUBCHAPTER F. ESCROW OF DISPUTED AMOUNTS

Sec. 62.101. ESCROW ACCOUNT. If a claim for a lien under a recorded notice of lien is not paid or assumed at the closing of a sale, lease, or mortgage of the commercial real estate interest subject to the lien and would prevent the closing of the transaction or conveyance or if a claim for a lien under a recorded notice of lien does not survive the closing, any person named in the notice of lien as obligated to pay the commission shall, on the date of the closing:

(1) establish an escrow account from any net proceeds of the transaction or conveyance in an amount equal to the amount sufficient to satisfy the lien plus 15 percent of that amount; or

(2) file a bond to indemnify against the lien as provided by Subchapter G.

Sec. 62.102. NAMED ESCROW AGENT. If an escrow agent is named in the contract on which the transaction or conveyance is based, the escrow account shall be established with the named escrow agent.

Sec. 62.103. COSTS OF INTERPLEADER. Related costs for any interpleader action may be deducted from the escrow account by the person maintaining the escrow account.

Sec. 62.104. REFUSAL TO ESTABLISH ESCROW ACCOUNT OR BOND. (a) A party may not refuse to close a transaction because of the requirement to establish an escrow account or bond as provided by Section 62.101 if:

(1) the broker provides a copy of the notice of lien that complies with Sections 62.025 and 62.026;

(2) sufficient proceeds will result from the proposed transaction for the payment of the commission and costs of the interpleader; and

(3) the broker executes and delivers a full release of the broker's lien in a recordable form.

(b) A prospective buyer of a commercial real estate interest may not refuse to close the purchase solely because a broker's lien is filed after the date a title commitment or abstract of title relating to the interest is issued if an escrow account is established as provided by this subchapter or a bond is filed as provided by Subchapter G.

Sec. 62.105. TERM OF ESCROW ACCOUNT. The amount held in escrow shall be held in escrow until:

(1) the rights of the parties claiming the amount in escrow are determined by a written agreement of the parties, a court order, or an alternative dispute resolution process agreed to by the parties;

(2) the broker's lien is no longer enforceable; or

(3) the funds are interpled into a district court for the county in which the commercial real estate is located.

Sec. 62.106. EXTINGUISHMENT OF LIEN UPON ESCROW. When the escrow account is established under this subchapter, the broker's lien against the commercial real estate is extinguished and becomes a lien on the proceeds in the escrow account.

[Sections 62.107-62.120 reserved for expansion]

SUBCHAPTER G. BOND TO INDEMNIFY AGAINST LIEN

Sec. 62.121. BOND. (a) If a lien is fixed or is attempted to be fixed by a recorded instrument under this chapter, any person may file a bond to indemnify against the lien.

(b) The bond shall be filed with the county clerk of the county in which the commercial real estate subject to the lien is located.

Sec. 62.122. BOND REQUIREMENTS. The bond must:

(1) describe the commercial real estate on which the lien is claimed;

(2) refer to the lien claimed in a manner sufficient to identify it;

(3) be in an amount that is double the amount of the lien referred to in the bond as of the date of execution of the bond by the surety, unless the total amount claimed in the lien exceeds \$40,000, in which case the bond must be in an amount that is 1-1/2 times the amount of the lien;

(4) be payable to the party claiming the lien;

(5) be executed by:

(A) the party filing the bond as principal; and

(B) a corporate surety licensed by this state to execute the bond as surety;

(6) be conditioned substantially that the principal and sureties will pay the named obligees or their assignees the amount that the named obligees would have been entitled to recover if their claim had been proved to be valid and enforceable liens on the commercial real estate; and

(7) identify the last known mailing address of the person claiming the lien.

Sec. 62.123. NOTICE OF BOND. (a) After the bond is filed, the county clerk shall issue notice of the bond to all named obligees.

(b) A copy of the bond must be attached to the notice.

(c) The notice must be served on each obligee by mailing a copy of the notice and the bond to the obligee by certified mail, return receipt requested, addressed to the claimant at the address stated in the bond for the obligee.

Sec. 62.124. RECORDING OF BOND AND NOTICE. (a) The county clerk shall record the bond, the notice, and a certificate of mailing in the real property records.

(b) In acquiring an interest in or insuring title to the commercial real estate, a buyer, insurer of title, or lender may rely on and is absolutely protected by the record of the bond and the notice to the same extent as if the lien claimant had filed a release of lien in the real property records.

Sec. 62.125. ACTION ON BOND. (a) A party making or holding a lien claim may not sue on the bond later than the last date on which a person may bring a suit to foreclose the lien under Section 62.062.

(b) The bond is not exhausted by one action against it. Each named obligee or assignee of an obligee may maintain a separate suit on the bond in any district court for the county in which the commercial real estate is located.

[Sections 62.126-62.140 reserved for expansion]

SUBCHAPTER H. REMEDIES

Sec. 62.141. OWNER'S OR TENANT'S REMEDIES. (a) An owner or tenant may file suit against a broker under this chapter.

(b) In an action filed under this section, the court shall discharge a broker's lien if the broker:

(1) failed to mail a copy of the notice of lien within the period prescribed by Section 62.026;

(2) failed to execute, acknowledge, and return a subordination agreement within the period prescribed by Section 62.029(d);

(3) failed to record the notice of lien within the period prescribed by Section 62.041; or

(4) failed to release a lien within the period prescribed by Section 62.081.

(c) A broker is liable to an owner or tenant for damages as provided by Subsection (d) if:

(1) the broker recorded a lien on the commercial real estate interest of the owner or tenant;

(2) the broker failed to:

(A) execute, acknowledge, and return a subordination agreement within the period prescribed by Section 62.029(d); or

(B) release a lien within the period prescribed by Section 62.081;

(3) the owner, tenant, or escrow agent mailed to the broker by certified mail, return receipt requested, a copy of this section and a notice requesting the broker to execute, acknowledge, and return the subordination agreement or release the lien not later than the 10th day after the date the broker receives the notice; and

(4) the broker failed to comply with the owner's, tenant's, or escrow agent's written notice within the prescribed period.

(d) If the court finds that a broker is liable to an owner or tenant under Subsection (c), the court may award the owner or tenant:

(1) actual damages, including attorney's fees and court costs, incurred by the owner or tenant that are proximately caused by the broker's failure to execute, acknowledge, and return the subordination agreement or release the lien; and

(2) a civil penalty in an amount not to exceed three times the amount of the claimed commission if the court finds that the broker acted with gross negligence or acted in bad faith in violation of The Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes).

(e) This section does not prevent:

(1) a person from filing a complaint with the Texas Real Estate Commission against a broker who fails to comply with this chapter; or

(2) the Texas Real Estate Commission at any time from investigating or initiating a disciplinary proceeding against a broker who fails to comply with this chapter.

Sec. 62.142. BROKER'S REMEDIES. (a) A broker may file suit against an owner or tenant to enforce a commission agreement.

(b) If the court finds that the broker waived the right to file a lien under Section 62.022 and that the owner or tenant violated the commission agreement, the court may award to the broker:

(1) actual damages, including attorney's fees and court costs, that are proximately caused by the owner's or tenant's failure to comply with the commission agreement; and

(2) a civil penalty in an amount not to exceed three times the amount of the claimed commission if the court finds that the owner or tenant acted with gross negligence or in bad faith.

SECTION _____. The change in law made by Chapter 62, Property Code, as added by this Act, applies only to an agreement to compensate a licensed real estate broker or appraiser that is entered into on or after the effective date of this Act.

**HB 1123 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Thompson called up with senate amendments for consideration at this time,

HB 1123, A bill to be entitled An Act relating to the salaries of certain statutory county court judges.

Representative Thompson moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1123**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1123**: Thompson, chair, Hartnett, Capelo, Deshotel, and Hinojosa.

**HB 826 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Greenberg called up with senate amendments for consideration at this time,

HB 826, A bill to be entitled An Act relating to alternative dispute resolution proceedings of governmental bodies.

Representative Greenberg moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 826**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 826**: Greenberg, chair, Wolens, Hilbert, Longoria, and Alvarado.

**HB 1223 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Seaman called up with senate amendments for consideration at this time,

HB 1223, A bill to be entitled An Act relating to a historical artifacts program under the Texas Historical Commission.

Representative Seaman moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1223**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1223**: Seaman, chair, Hunter, Uher, Luna, and P. Moreno.

**HB 1248 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Farrar called up with senate amendments for consideration at this time,

HB 1248, A bill to be entitled An Act relating to the regulation of the practice of architecture, landscape architecture, and interior design; providing administrative penalties.

On motion of Representative Farrar, the house concurred in the senate amendments to **HB 1248**.

Senate Amendment No. 1

Amend **HB 1248** by adding a new section to the bill on page 3, between lines 18 and 19, appropriately numbered and renumbering the subsequent sections accordingly:

SECTION _____. Section 5(d), Chapter 478, Acts of the 45th Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) The Board [~~may not~~] shall adopt rules to prevent a person regulated by the Board from submitting a competitive bid to, or soliciting a competitive bid on behalf of, a governmental entity that is prohibited by Subchapter A, Chapter 2254, Government Code, from making a selection or awarding a contract on the basis of competitive bids, and the Board may not otherwise adopt rules restricting competitive bidding or advertising by a person regulated by the Board except to prohibit false, misleading, or deceptive practices by the person. The Board may not include in its rules to prohibit false, misleading or deceptive practices by a person regulated by the Board a rule that:

- (1) restricts the use of any medium for advertising;
 - (2) restricts the person's personal appearance or the use of the person's voice in an advertisement;
 - (3) relates to the size or duration of an advertisement by the person;
- or
- (4) restricts the person's advertisement under a trade name.

Senate Amendment No. 2

Amend **HB 1248** as follows:

(1) In SECTION 1.09 of the bill, in proposed Section 7A(a), Article 249a, Vernon's Texas Civil Statutes (Senate Committee Printing, page 4, lines 3 and 4), strike "Section 12(c)" and substitute "Section 11A(b) or 12(c)".

(2) Between SECTIONS 1.11 and 1.12 of the bill (Senate Committee Printing, page 5, between lines 35 and 36), insert the following SECTION, appropriately numbered:

SECTION _____. Chapter 478, Acts of the 45th Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas Civil Statutes), is amended by adding Section 11A to read as follows:

Sec. 11A. (a) The Board by rule shall adopt a system by which a registered architect may place the person's certificate of registration on inactive status. A registered architect must apply for inactive status, on a form prescribed by the Board, before the expiration date of the person's certificate of registration.

(b) A registered architect whose certificate of registration is on inactive status must pay a certificate of registration renewal fee of \$10 on a date and in a manner prescribed by Board rule.

(c) A registered architect whose certificate of registration is on inactive status may not perform any activity regulated under this Act.

(d) A registered architect whose certificate of registration is on inactive status and who wishes to return to active practice shall notify the Board in writing. The Board shall remove the registered architect's certificate of registration from inactive status on payment of an administrative fee and on compliance with educational or other requirements established by Board rules.

(3) Between SECTIONS 2.02 and 2.03 of the bill (Senate Committee Printing, page 7, between lines 37 and 38), insert the following SECTION, appropriately numbered:

SECTION _____. Chapter 457, Acts of the 61st Legislature, Regular Session, 1969 (Article 249c, Vernon's Texas Civil Statutes), is amended by adding Section 6A to read as follows:

Sec. 6A. INACTIVE STATUS. (a) The board by rule shall adopt a system by which a registered landscape architect may place the person's certificate of registration on inactive status. A registered landscape architect must apply for inactive status, on a form prescribed by the board, before the expiration date of the person's certificate of registration.

(b) A registered landscape architect whose certificate of registration is on inactive status is not required to pay certificate of registration renewal fees.

(c) A registered landscape architect whose certificate of registration is on inactive status may not perform any activity regulated under this Act.

(d) A registered landscape architect whose certificate of registration is on inactive status and who wishes to return to active practice shall notify the board in writing. The board shall remove the registered landscape architect's certificate of registration from inactive status on payment of an administrative fee and on compliance with educational or other requirements established by board rules.

(4) Between SECTIONS 3.03 and 3.04 of the bill (Senate Committee Printing, page 12, between lines 32 and 33), insert the following SECTION, appropriately numbered:

SECTION _____. Article 249e, Revised Statutes, is amended by adding Section 13A to read as follows:

Sec. 13A. INACTIVE STATUS. (a) The board by rule shall adopt a system by which a registered interior designer may place the person's certificate of registration on inactive status. A registered interior designer must apply for inactive status, on a form prescribed by the board, before the expiration date of the person's certificate of registration.

(b) A registered interior designer whose certificate of registration is on inactive status is not required to pay certificate of registration renewal fees.

(c) A registered interior designer whose certificate of registration is on inactive status may not perform any activity regulated under this Act.

(d) A registered interior designer whose certificate of registration is on inactive status and who wishes to return to active practice shall notify the board in writing. The board shall remove the registered interior designer's certificate of registration from inactive status on payment of an administrative fee and on compliance with educational or other requirements established by board rules.

(5) Renumber the SECTIONS of the bill and references to those SECTIONS accordingly.

Senate Amendment No. 3

Amend **HB 1248** by striking the existing subsection (e) in Section 1.02 of the bill, (Committee printed version, page 2, lines 11-16), and substituting a new subsection (e) to read as follows:

(e) The Board shall ~~[may] require [recognize, prepare, or administer]~~ continuing education programs for architects, interior designers, and ~~[or]~~ landscape architects~~[-]~~, and ~~may include courses applicable to health, safety or welfare as a condition of registration renewal for architects, interior designers, and landscape architects. The Board may recognize the programs of nationally acknowledged organizations involved in providing, recording or approving post-graduate education. In addition, the Board may recognize any other sponsoring organization or individual whose presentations are approved by the Board as qualifying in design or construction health, safety, or welfare. The Board may include programs relating to barrier free design.~~ Participation in the programs selected under this provision is mandatory ~~[voluntary]~~.

Senate Amendment No. 4

Amend **HB 1248**, section 3.04, amending sections 14(b), (c) and (e), Article 249e, Revised Statutes, is amended by adding Section 5(j):

(j) A registered interior designer, as herein defined, who is, as of September 1, 1999, a full-time faculty member or other permanent employee of an institution of higher education, as defined in Education Code, section 61.003, and who in such position, is engaged in teaching interior design, shall be exempt from the continuing education requirements of this Article.

Senate Amendment No. 5

Amend **HB 1248**, section 2.03, amending sections 7(d)-(h), Chapter 457, Acts of the 61st Legislature, Regular Session, 1969 (Article 249c, Vernon's Texas Civil Statutes), is amended by adding Section 7(j):

(j) A registered landscape architect, as herein defined, who is, as of September 1, 1999, a full-time faculty member or other permanent employee of an institution of higher education, as defined in Education Code, section 61.003, and who in such position, is engaged in teaching landscape architecture, shall be exempt from the continuing education requirements of this Article.

Senate Amendment No. 6

Amend **HB 1248**, section 1.12, amending sections 12(c)-(h), Chapter 478, Acts of the 45th Legislature, Regular Session, 1937 (Article 249a, Vernon's Texas Civil Statutes), is amended by adding Section 12(j):

(j) A registered architect, as herein defined, who is, as of September 1, 1999, a full-time faculty member or other permanent employee of an institution of higher education, as defined in Education Code, section 61.003, and who in such position, is engaged in teaching architecture, shall be exempt from the continuing education requirements of this Article.

**HB 1283 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Counts called up with senate amendments for consideration at this time,

HB 1283, A bill to be entitled An Act relating to general permits for the discharge of wastewater.

Representative Counts moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1283**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1283**: Counts, chair, R. Lewis, Cook, T. King, and Walker.

**HB 1324 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Garcia called up with senate amendments for consideration at this time,

HB 1324, A bill to be entitled An Act relating to termination of an employee who performs jury duty; providing a criminal penalty.

On motion of Representative Garcia, the house concurred in the senate amendments to **HB 1324**.

Senate Committee Substitute

CSHB 1324, A bill to be entitled An Act relating to termination of an employee who performs jury duty; providing a criminal penalty.

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

SECTION 1. Section 122.002(a), Civil Practice and Remedies Code, is amended to read as follows:

(a) A person who is injured because of a violation of this chapter is entitled to reinstatement to his former position and to damages ~~in~~~~[, but the damages may not exceed]~~ an amount not less than an amount equal to one year's ~~[six months']~~ compensation ~~nor more than an amount equal to five years' compensation~~ at the rate at which the person was compensated when summoned for jury service.

SECTION 2. Chapter 122, Civil Practice and Remedies Code, is amended by adding Sections 122.0021 and 122.0022 to read as follows:

Sec. 122.0021. CRIMINAL PENALTY. (a) A person commits an offense if the person violates Section 122.001.

(b) An offense under this section is a Class B misdemeanor.

Sec. 122.0022. CONTEMPT. In addition to and without limiting any other sanction or remedy available under this chapter or other law, a court may punish by contempt an employer who terminates, threatens to terminate, penalizes, or threatens to penalize an employee because the employee performs jury duty.

SECTION 3. This Act takes effect September 1, 1999, and applies only to an employee termination or act by an employer to improperly influence an employee that occurs on or after that date. A termination or act by an employer to improperly influence an employee that occurs before that date is governed by the law in effect on the date the termination or act occurred, and the former law is continued in effect for that purpose.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Senate Amendment No. 1

Amend **CSHB 1324** as follows:

(1) Strike the recital to SECTION 1 of the bill (page 1, lines 13-14, Senate committee report printing) and substitute the following:

SECTION 1. Section 122.002, Civil Practice and Remedies Code, is amended by amending Subsection (a) and by adding Subsection (c) to read as follows:

(2) In SECTION 1 of the bill, in amended Section 122.002, Civil Practice and Remedies Code, insert a new Subsection (c) to that section (page 1, between lines 20 and 21, Senate committee report printing), to read as follows:

(c) An action for damages brought by a person under Subsection (a) must be brought not later than the second anniversary of the date on which the person served as a juror.

HB 1342 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Maxey called up with senate amendments for consideration at this time,

HB 1342, A bill to be entitled An Act relating to the practice of registered nurses and licensed vocational nurses, including the adoption of an interstate compact relating to licensing.

On motion of Representative Maxey, the house concurred in the senate amendments to **HB 1342**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 1342** as follows:

1. Amend Section 1 by adding (on page 15 between lines 19 and 20) Secs. 8 and 9 to Article 4528b to read as follows and renumbering remaining sections accordingly.

Sec. 8. In reporting information to the Coordinated Licensure Information System under Article 7 of the Nurse Licensure Compact, the Board of Nurse Examiners and the Board of Vocational Nurse Examiners may disclose personally identifiable information about the nurse including social security number. The Coordinated Licensure Information System may not share

personally identifying information with a state not a party to the compact unless the state agrees not to disclose that information to other persons.

Sec. 9. (a) The Governor may withdraw this state from the Nurse Licensure Compact if the Board of Nurse Examiners or the Board of Vocational Nurse Examiners notifies the governor that a state that is party to the compact changed, after January 1, 1999, the state's requirements for licensing a nurse and that the state's requirements, as changed, are substantially lower than the requirements for licensing a nurse in this state.

(b) The governor may completely withdraw this state from the Nurse Licensure Compact or may limit withdrawal to the application of the compact to registered nurses or licensed vocational nurses.

2. Add SECTION 8 to read as follows and renumber remaining SECTIONS accordingly:

SECTION 8. Section 12, Chapter 118, Acts of the 52nd Legislature, Regular Session, 1951 (Article 4528c, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 12. Approval of Vocational Nursing Programs. (a) Any hospital in regular use for patients which has a registered nurse in charge of nursing, and whose staff consists of one or more licensed physicians licensed by the State Board of Medical Examiners, may qualify as an approved hospital for Vocational Nurse Education, provided it can and will meet requirements of the Board for the education of Vocational Nurses.

(b) Any institution which shall be qualified under Section 5, and under regulations promulgated by the Board to conduct a course in Vocational Nursing shall apply to the Board and shall accompany said application with evidence that it is prepared to give a course [~~of not less than twelve (12) months~~] approved by the Board for the education of Vocational Nurses; such application shall be accompanied by the appropriate fee provided for in Section 9 of this Act; upon receipt of such application the Board shall cause a survey of the institution making such application to be made by a qualified representative of such Board. If in the opinion of a majority of the members of the Board, the requirements for an approved course for Vocational Nursing are met by such institution, such institution shall be placed on a list of such institutions given for educating Vocational Nurses. It shall further be the duty of the Board, from time to time, to survey all courses for such education of Vocational Nurses offered within the State. Written reports of such surveys shall be submitted to the Board. If the Board shall determine as a result of such surveys that any school, hospital or institution heretofore approved as an institution of Vocational Nursing is not maintaining the standards required by law and by the rules and regulations promulgated by the Board, notice thereof shall immediately be given to such school, hospital or institution. If the requirements of the Board are not complied with within a reasonable time set by the Board in such notices, such institution shall be removed from the list of approved schools, hospitals or institutions offering courses for Vocational Nurses in this State.

HB 1398 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Coleman called up with senate amendments for consideration at this time,

HB 1398, A bill to be entitled An Act relating to indigent health care.

On motion of Representative Coleman, the house concurred in the senate amendments to **HB 1398**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 1398**, Subchapter C, Chapter 281, Health and Safety Code, Section 281.0514(a) on page 21, line 23, by deleting "shall" and inserting "may"

Senate Amendment No. 2 (Senate Committee Amendment No. 2)

Amend **HB 1398** as follows:

(1) On page 11, line 3, strike "and".

(2) On page 11, between lines 3 and 4, insert:

(10) services provided by federally qualified health centers, as defined by 42 U.S.C. Section 1396d(1)(2)(B); and

(3) On page 11, line 4, strike "(10)" and substitute "(11)".

Senate Amendment No. 3

Amend **HB 1398**, Senate Committee Report printing as follows:

Amend Line 1-61 to read "services to eligible residents[-], including the primary teaching hospital of a state medical school located in a county which does not have a public hospital or hospital district, and the faculty members practicing in both the inpatient and outpatient care facilities affiliated with the teaching hospital.

Senate Amendment No. 4

Amend **HB 1398** in ARTICLE 1 of the bill by striking the recital to SECTION 1.15 of the bill (senate committee printing, page 8, lines 10-11), and substituting the following:

SECTION 1.15. Section 61.052, Health and Safety Code, is amended to read as follows:

Sec. 61.052. GENERAL ELIGIBILITY PROVISIONS. (a) A public hospital or hospital district shall provide health care assistance to each eligible resident in its service area who meets:

(1) the basic income and resources requirements established by the department under Sections 61.006 and 61.008 and in effect when the assistance is requested; or

(2) a less restrictive income and resources standard adopted by the hospital or hospital district serving the area in which the person resides.

(b) If a public hospital used an income and resources standard during the operating year that ended before January 1, 1985, that was less restrictive than the income and resources requirements established by the department under Section 61.006, the hospital shall adopt that standard to determine eligibility under this subchapter.

(c) If a public hospital did not use an income and resources standard during the operating year that ended before January 1, 1985, but had a Hill-Burton obligation during part of that year, the hospital shall adopt the standard the hospital used to meet the Hill-Burton obligation to determine eligibility under this subchapter.

(d) A public hospital established after September 1, 1985, shall provide health care services to each resident who meets the income and resources requirements established by the department under Sections 61.006 and 61.008, or the hospital may adopt a less restrictive income and resources standard. The hospital may adopt a less restrictive income and resources standard at any time.

(e) If because of a change in the income and resources requirements established by the department under Sections 61.006 and 61.008 the standard adopted by a public hospital or hospital district becomes stricter than the requirements established by the department, the hospital or hospital district shall change its standard to at least comply with the requirements established by the department.

(f) A public hospital or hospital district may contract with the department to perform eligibility determination services.

Senate Amendment No. 5

Amend **HB 1398** as follows:

(1) In SECTION 1.13, in amended Section 61.037, Health and Safety Code (senate committee printing, page 7, lines 30-38), strike added Subsection (j).

(2) In ARTICLE 1, following SECTION 1.13 (senate committee printing, page 7, between lines 56 and 57), insert new SECTION 1.14 to read as follows and renumber subsequent SECTIONS of ARTICLE 1 of the bill accordingly:

SECTION 1.14. Subchapter B, Chapter 61, Health and Safety Code, is amended by adding Section 61.0395 to read as follows:

Sec. 61.0395. LIMITED TO APPROPRIATED FUNDS. (a) The total amount of state assistance provided to counties under this chapter for a fiscal year may not exceed the amount appropriated for that purpose for that fiscal year.

(b) The department shall adopt rules governing the distribution of state assistance under this chapter that establish a maximum annual allocation for each county eligible for assistance under this chapter in compliance with Subsection (a).

(c) The rules adopted under this section:

(1) may consider the relative populations of the service areas of eligible counties and other appropriate factors; and

(2) notwithstanding Subsection (b), may provide for, at the end of each state fiscal year, the reallocation of all money that is allocated to a county under Subsection (b) but that the county is not eligible to receive and the distribution of that money to other eligible counties.

(3) At the end of ARTICLE 1 of the bill (senate committee printing, page 10, between lines 65 and 66), insert the following SECTION, appropriately numbered:

SECTION 1.____. For fiscal years 2000 and 2001, the rules adopted under Section 61.0395(b), Health and Safety Code, as added by this Act, must ensure that each county's annual allocation is equal to at least the average estimated annual amount of state assistance that the county would have been eligible to receive during each of the state fiscal years ending on August 31, 1997, August 31, 1998, and August 31, 1999, computed as if the eligibility

threshold established by Section 61.037, Health and Safety Code, as amended by this Act, and the state match rate established by Section 61.038, Health and Safety Code, as amended by this Act, had applied during those fiscal years.

Senate Amendment No. 6

Amend **HB 1398** by inserting the following section, appropriately numbered, and renumbering the subsequent sections of the bill accordingly:

SECTION _____. Section 531.047, Government Code, as added by Chapter 1251, Acts of the 75th Legislature, Regular Session, 1997, is amended by amending Subsection (a) and adding Subsection (h) to read as follows:

(a) In this section:

(1) "Health professional" means an advanced nurse practitioner, an allied health professional, a mental health professional, a physician, or a physician assistant who is licensed in this state.

(2) "Rural county" means a county that:

(A) has [with] a population of [less than] 50,000 or less; or

(B) contains an area that was not designated as an urban area by the United States Bureau of the Census according to the 1990 federal census and does not have within the boundaries of the county a hospital that:

(i) is licensed under Chapter 241, Health and

Safety Code; and

(ii) has more than 100 beds.

(3) "Rural health facility" means a health facility that is located in a rural county and at least 30 miles from any accredited medical school or any teaching hospital affiliated with an accredited medical school and that is:

(A) a licensed, nonprofit hospital; [or]

(B) a health clinic that is affiliated with:

(i) an accredited medical school; [or]

(ii) a teaching hospital that is affiliated with an accredited medical school;

(iii) a hospital described by Paragraph (C); or

(iv) a federally-qualified health center, as defined by 42 U.S.C. Section 1396d(l)(2)(B), as amended; or

(C) a hospital that:

(i) is licensed under Chapter 241, Health and Safety Code;

(ii) is owned or operated by a municipality, county, hospital district, or hospital authority; and

(iii) provides inpatient or outpatient services.

(4) "Telemedical consultation" means a medical consultation for purposes of patient diagnosis or treatment that requires the use of advanced telecommunications technology, including:

(A) compressed digital interactive video, audio, or data transmission;

(B) clinical data transmission via computer imaging for teleradiology or telepathology; and

(C) other technology that facilitates access in rural counties to health care services or medical specialty expertise.

(h) The commissioner shall establish an advisory committee to assist the commission in developing policies for telemedical consultations under this section.

Senate Amendment No. 7

Amend **HB 1398** by striking ARTICLE 2 (senate committee printing, page 10, line 66, through page 12, line 48) and substituting the following:
ARTICLE 2. TERTIARY MEDICAL CARE

SECTION 2.01. Subtitle B, Title 2, Health and Safety Code, is amended by adding Chapter 46 to read as follows:

CHAPTER 46. TERTIARY MEDICAL CARE

Sec. 46.001. DEFINITIONS. In this chapter:

(1) "Tertiary care facility" means a:

(A) primary teaching hospital of a medical school;

(B) level I trauma center;

(C) level II trauma center; or

(D) level III trauma center.

(2) "Tertiary medical services" includes, but is not limited to, services provided by state-designated trauma centers, burn center treatment, neonatology level III unit services, pediatric surgery, trauma surgery, neurosurgery, cardiothoracic and vascular surgery, organ transplant, services provided for a life-threatening dermatologic illness, services provided to a person with a high-risk pregnancy or cancer, and radiation oncology.

(3) "Stabilization services" means services provided by a tertiary care facility or a level IV designated trauma center that are necessary to assure, within reasonable medical probability, that no material deterioration of a patient's medical condition is likely to result from or occur during the transfer of the patient to a tertiary care facility.

(4) "Unreimbursed stabilization services" means stabilization services for which a tertiary care facility or level IV designated trauma facility has not received full payment from any public or private source.

(5) "Unreimbursed tertiary medical services" means tertiary care medical services for which a tertiary care facility has not received full payment from any public or private source.

Sec. 46.002. RULES. (a) The board may adopt rules to implement a system that encourages hospitals to provide tertiary medical services and stabilization services.

(b) The rules must address:

(1) coordination of tertiary medical services and stabilization services among health care facilities in the delivery area;

(2) pre-hospital care management guidelines for triage, transfer, and transportation of patients and periodic evaluation of tertiary care facilities' and level IV trauma facilities' compliance with the guidelines and the trauma facility rules, as appropriate;

(3) requirements for data collection, including patient outcomes;

(4) assurances that tertiary care facilities will not refuse to accept the

transfer of a patient solely because of the person's inability to pay for services or because of the person's age, sex, race, religion, or national origin; and

(5) enforcement of the rules.

Sec. 46.003. TERTIARY CARE ACCOUNT. (a) The tertiary care account is an account in the state treasury. Money in the account may be appropriated only to the department for the purposes of this chapter.

(b) The account is composed of money appropriated to the account and any other funds required to be put in the account.

(c) The department may seek and accept gifts, grants, and donations from any public or private entity on behalf of the account.

(d) Section 403.095, Government Code, does not apply to the account.

(e) For each fiscal year, five percent of the total amount in the account shall be held in reserve and may be used only for reimbursement of unpaid tertiary medical services and stabilization services provided as a result of extraordinary emergencies occurring during that year. Of the amount remaining, not more than five percent may be used for the costs of administering the account.

(f) Except as provided by Subsection (e), the account shall be allocated for payment to tertiary care facilities and level IV trauma centers for unreimbursed tertiary medical services and stabilization services, as provided for in Sections 46.005 and 46.006.

Sec. 46.004. COLLECTION OF INFORMATION. (a) Each tertiary care facility or level IV trauma facility that seeks payment under this chapter shall submit to the department, in the manner and at the time required by the department, information that relates to the unreimbursed tertiary medical services or stabilization services provided to persons who reside outside the service area of the county, public hospital, or hospital district that is responsible for indigent health care under Chapter 61 in the area in which the tertiary care facility or level IV trauma facility is located.

(b) The board shall adopt rules governing the collection of the information under Subsection (a).

Sec. 46.005. CERTIFICATION TO COMPTROLLER OF UNREIMBURSED TERTIARY MEDICAL SERVICES. (a) The department shall certify to the comptroller for each tertiary care facility the cost of unreimbursed tertiary medical services provided to persons who reside outside the service area of the county, public hospital, or hospital district that is responsible for indigent health care under Chapter 61 in the area in which the tertiary care facility is located.

(b) In each fiscal year the department shall use at least 86 percent of the appropriated money in the tertiary care account to compensate tertiary care facilities for unreimbursed tertiary medical services.

(c) Each year the department shall make, for a facility that operated as a tertiary care facility during the previous year, an initial certification to the comptroller under Subsection (a) in an amount that equals 80 percent of the amount certified under this section for the facility in the previous year. The department shall make a subsequent certification of the cost of additional unreimbursed tertiary medical services provided by the facility on receipt

from the facility of the information required to be submitted under Section 46.004.

(d) Except as provided by Subsection (e), each year the comptroller shall pay a tertiary care facility the certified amount determined under Subsection (a) from the funds specified under Section 46.003(f).

(e) If in any year the total cost of unreimbursed tertiary medical services certified under Subsection (a) for all tertiary care facilities exceeds the amount available for payment to all facilities under Section 46.003(f), less the amount allocated for stabilization services under Section 46.006(b), the department shall allocate the amount available under Section 46.003(f) to each facility based on the percentages computed by dividing the cost of the facility's unreimbursed tertiary medical services by the total cost of all facilities' unreimbursed tertiary medical services. The comptroller shall pay each tertiary care facility based on the allocation made under this subsection.

(f) For purposes of this section and Section 46.007, the cost of each service provided by a tertiary care facility is the average amount payable under Medicare reimbursement policies for that service.

Sec. 46.006. CERTIFICATION TO COMPTROLLER OF UNREIMBURSED STABILIZATION SERVICES. (a) The department shall certify to the comptroller for each tertiary care facility or level IV trauma facility the cost of unreimbursed stabilization services provided to persons who reside outside the service area of the county, public hospital, or hospital district that is responsible for indigent health care under Chapter 61 in the area in which the tertiary care facility or level IV trauma facility is located.

(b) In each fiscal year the department shall use no more than four percent of the appropriated money in the tertiary care account to compensate tertiary care facilities and level IV trauma facilities for unreimbursed stabilization services.

(c) Each year the department shall make, for a facility that operated as a tertiary care facility or level IV trauma facility during the previous year, an initial certification to the comptroller under Subsection (a) in an amount that equals 80 percent of the amount certified under this section for the facility in the previous year. The department shall make a subsequent certification of the cost of additional unreimbursed stabilization services provided by the facility on receipt from the facility of the information required to be submitted under Section 46.004.

(d) Except as provided by Subsection (e), each year the comptroller shall pay a tertiary care facility or level IV trauma facility the certified amount determined under Subsection (a) from the funds specified under Section 46.003(f).

(e) If in any year the total cost of unreimbursed stabilization services certified under Subsection (a) for all tertiary care facilities or level IV trauma facilities exceeds the amount available for payment to the facilities under Section 46.003(f), as limited by Subsection (b), the department shall allocate the amount available to each facility based on the percentages computed by dividing the cost of the facility's unreimbursed stabilization services by the total cost of all facilities' unreimbursed stabilization services. The comptroller shall pay each tertiary care facility or level IV trauma facility based on the allocation made under this subsection.

(f) For purposes of this section and Section 46.007, the cost of each service provided by a tertiary care facility or level IV trauma facility is the average amount payable under Medicare reimbursement policies for that service.

Sec. 46.007. CERTIFICATION OF EMERGENCIES. (a) For purposes of reimbursing extraordinary emergencies under this chapter, the department shall certify an extraordinary emergency:

(1) if the governor issues an executive order or a proclamation under Chapter 418, Government Code;

(2) if a disaster is declared by the president of the United States under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. Section 5121 et seq.); or

(3) for another similar disaster the department finds has resulted in an extraordinary cost to a tertiary care facility or level IV trauma facility.

(b) If an extraordinary emergency is certified under Subsection (a), the department shall certify to the comptroller the amount of unreimbursed tertiary medical services or stabilization services incurred by a tertiary care facility or level IV trauma facility, as appropriate, during the emergency.

(c) Except as provided by Subsection (d), each year the comptroller shall pay a tertiary care facility or level IV trauma facility the certified amount determined under Subsection (b) from the funds specified under Section 46.003(e).

(d) If in any year the total cost of unreimbursed tertiary medical services or stabilization services certified under Subsection (b) for all facilities exceeds the amount available for payment to the facilities under Section 46.003(e), the department shall allocate the amount available under Section 46.003(e) to each facility based on the percentages computed by dividing the cost of the facility's unreimbursed services by the total cost of all facilities' unreimbursed services. The comptroller shall pay each tertiary care facility or level IV trauma facility based on the allocation made under this subsection.

SECTION 2.02. Section 773.003, Health and Safety Code, is amended by adding Subdivision (22) to read as follows:

(22) "Trauma services" includes services provided to a severely or seriously injured patient who has a principal diagnosis listed in the Injuries and Poisonings Chapter of the International Classification of Diseases, Clinical Modification.

Senate Amendment No. 8

HB 1398 is amended by adding a new Section ____ to read as follows:

SECTION _____. Chapter 61, Health and Safety Code, is amended by adding Section 61.011 to read as follows:

Sec. 61.011. SERVICES BY STATE HOSPITAL OR CLINIC. A state hospital or clinic shall be entitled to payment for services rendered to an eligible resident under the provisions of this Chapter applicable to other providers. The department may adopt rules as necessary to implement this section.

Senate Amendment No. 9

Amend **HB 1398** by adding the following ARTICLE, appropriately numbered, and renumbering ARTICLES and SECTIONS of the bill appropriately:

ARTICLE __. DISSOLUTION OF HOSPITAL DISTRICTS

SECTION __.01. Chapter 285, Health and Safety Code, is amended by adding Subchapter K to read as follows:

SUBCHAPTER K. DISSOLUTION OF HOSPITAL DISTRICT

Sec. 285.151. ASSETS TRANSFERRED ON DISSOLUTION. Notwithstanding any general or special law, if a hospital district is dissolved and the money or other assets of the district are transferred to a county or other governmental entity under a process established in accordance with Section 9, Article IX, Texas Constitution, the governmental entity shall use all transferred assets to:

(1) pay the outstanding debts and obligations of the district relating to the assets at the time of the transfer, if any; and

(2) furnish medical and hospital care for indigent persons who reside in the territory within the jurisdiction of the governmental entity.

Senate Amendment No. 10

Amend **HB 1398** by adding the following appropriately numbered article to the bill and renumbering existing articles accordingly:

ARTICLE __. MISCELLANEOUS PROVISIONS

FOR INDIGENT HEALTH CARE

SECTION _____. Subtitle C, Title 2, Health and Safety Code, is amended by adding Chapter 64 to read as follows:

CHAPTER 64. MISCELLANEOUS PROVISIONS

Sec. 64.001. TEACHING HOSPITAL ACCOUNT. The Texas Department of Health state-owned multi-categorical teaching hospital account is an account in the general revenue fund. Money in the account may be appropriated only to the department to provide funding for indigent health care.

HB 1676 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Junell submitted the following conference committee report on **HB 1676**:

Austin, Texas, May 23, 1999

Honorable Rick Perry
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 1676** 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.

Ratliff
Truan

Junell
West

Duncan	Coleman
Fraser	Gallego
Moncrief	Heflin
On the part of the Senate	On the part of the House

HB 1676, A bill to be entitled An Act relating to permanent funds for certain public health purposes.

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

SECTION 1. Subchapter G, Chapter 403, Government Code, is amended by adding Sections 403.105, 403.1055, 403.106, 403.1065, 403.1066, 403.1067, 403.1068, and 463.1069 to read as follows:

Sec. 403.105. PERMANENT FUND FOR TOBACCO EDUCATION AND ENFORCEMENT. (a) The permanent fund for tobacco education and enforcement is a dedicated account in the general revenue fund. The fund is composed of:

- (1) money transferred to the fund at the direction of the legislature;
- (2) gifts and grants contributed to the fund; and
- (3) the available earnings of the fund determined in accordance with

Section 403.1068.

(b) Except as provided by Subsections (c), (e), and (f), money in the fund may not be appropriated for any purpose.

(c) The available earnings of the fund may be appropriated to the Texas Department of Health for programs to reduce the use of cigarettes and tobacco products in this state, including:

- (1) smoking cessation programs;
- (2) enforcement of Subchapters H, K, and N, Chapter 161, Health and Safety Code, or other laws relating to distribution of cigarettes or tobacco products to minors or use of cigarettes or tobacco products by minors;
- (3) public awareness programs relating to use of cigarettes and tobacco products, including general educational programs and programs directed toward youth; and

(4) specific programs for communities traditionally targeted, by advertising and other means, by companies that sell cigarettes or tobacco products.

(d) Subject to any applicable limit in the General Appropriations Act, the Texas Department of Health may contract with another entity to perform all or a part of the functions described by Subsection (c) or may award grants to community organizations, public institutions of higher education, as that term is defined by Section 61.003, Education Code, or political subdivisions to enable the organizations, institutions, or political subdivisions to perform all or a part of those functions. To ensure the most efficient, effective, and rapid delivery of services, the Texas Board of Health shall give high priority and preference to existing, effective state programs that do not otherwise receive money from an endowment program funded by money received under the Comprehensive Settlement Agreement and Release filed in the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91, in the United States District Court, Eastern District of Texas. The board may adopt rules governing any grant program established under this section.

(e) The comptroller may solicit and accept gifts and grants to the fund. A gift or grant to the fund may be appropriated in the same manner as available earnings of the fund, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

(f) Money in the fund may also be appropriated to pay any amount of money that the federal government determines that the state should repay to the federal government or that the federal government should recoup from the state in the event of national legislation regarding the subject matter of the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91, in the United States District Court, Eastern District of Texas.

(g) Sections 403.095 and 404.071 do not apply to the fund.

Sec. 403.1055. PERMANENT FUND FOR CHILDREN AND PUBLIC HEALTH. (a) The permanent fund for children and public health is a dedicated account in the general revenue fund. The fund is composed of:

(1) money transferred to the fund at the direction of the legislature;

(2) gifts and grants contributed to the fund; and

(3) the available earnings of the fund determined in accordance with Section 403.1068.

(b) Except as provided by Subsections (c), (e), and (f), money in the fund may not be appropriated for any purpose.

(c) The available earnings of the fund may be appropriated to the Texas Department of Health for the purpose of developing and demonstrating cost-effective prevention and intervention strategies for improving health outcomes for children and the public and for providing grants to local communities to address specific public health priorities, including sickle cell anemia, diabetes, high blood pressure, cancer, heart attack, stroke, keloid tissue and scarring, and respiratory disease, and for providing grants to local communities for essential public health services as defined in the Health and Safety Code.

(d) The Texas Board of Health may adopt rules governing any grant program established under this section.

(e) The comptroller may solicit and accept gifts and grants to the fund. A gift or grant to the fund may be appropriated in the same manner as available earnings of the fund, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

(f) Money in the fund may also be appropriated to pay any amount of money that the federal government determines that the state should repay to the federal government or that the federal government should recoup from the state in the event of national legislation regarding the subject matter of the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91, in the United States District Court, Eastern District of Texas.

(g) Sections 403.095 and 404.071 do not apply to the fund.

Sec. 403.106. PERMANENT FUND FOR EMERGENCY MEDICAL SERVICES AND TRAUMA CARE. (a) The permanent fund for emergency medical services and trauma care is a dedicated account in the general revenue fund. The fund is composed of:

(1) money transferred to the fund at the direction of the legislature;

(2) gifts and grants contributed to the fund; and

(3) the available earnings of the fund determined in accordance with Section 403.1068.

(b) Except as provided by Subsections (c), (e), and (f), money in the fund may not be appropriated for any purpose.

(c) The available earnings of the fund may be appropriated to the Texas Department of Health for programs to provide emergency medical services and trauma care in this state.

(d) Subject to any applicable limit in the General Appropriations Act, the Texas Department of Health may establish programs to provide emergency medical services and trauma care in this state, may contract with another entity to establish those programs, or may award grants to political subdivisions to establish or support those programs. The department may consolidate any grant program established under this section with other grant programs relating to the provision of emergency medical services and trauma care. The Texas Board of Health may adopt rules governing the grant program.

(e) The comptroller may solicit and accept gifts and grants to the fund. A gift or grant to the fund may be appropriated in the same manner as available earnings of the fund, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

(f) Money in the fund may also be appropriated to pay any amount of money that the federal government determines that the state should repay to the federal government or that the federal government should recoup from the state in the event of national legislation regarding the subject matter of the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91, in the United States District Court, Eastern District of Texas.

(g) Sections 403.095 and 404.071 do not apply to the fund.

Sec. 403.1065. PERMANENT FUND FOR RURAL HEALTH FACILITY CAPITAL IMPROVEMENT. (a) The permanent fund for rural health facility capital improvement is a dedicated account in the general revenue fund. The fund is composed of:

(1) money transferred to the fund at the direction of the legislature;

(2) payments of interest and principal on loans made under Subchapter G, Chapter 106, Health and Safety Code, and fees collected under that subchapter;

(3) gifts and grants contributed to the fund; and

(4) the available earnings of the fund determined in accordance with Section 403.1068.

(b) Except as provided by Subsections (c), (d), and (e), money in the fund may not be appropriated for any purpose.

(c) The available earnings of the fund may be appropriated to the Center for Rural Health Initiatives for the purposes of Subchapter G, Chapter 106, Health and Safety Code.

(d) The comptroller may solicit and accept gifts and grants to the fund. A gift or grant to the fund may be appropriated in the same manner as the available earnings of the fund, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

(e) Money in the fund may also be appropriated to pay any amount of money that the federal government determines that the state should repay to the federal government or that the federal government should recoup from the

state in the event of national legislation regarding the subject matter of the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91, in the United States District Court, Eastern District of Texas.

(f) Sections 403.095 and 404.071 do not apply to the fund.

Sec. 403.1066. COMMUNITY HOSPITAL CAPITAL IMPROVEMENT FUND. (a) The community hospital capital improvement fund is a dedicated account in the general revenue fund. The fund is composed of:

(1) money transferred to the fund at the direction of the legislature;

(2) payments of interest and principal on loans and fees collected under this section;

(3) gifts and grants contributed to the fund; and

(4) the available earnings of the fund determined in accordance with Section 403.1068.

(b) Except as provided by Subsections (c), (d), and (e), the money in the fund may not be appropriated for any purpose.

(c) The available earnings of the fund may be appropriated to the Texas Department of Health for the purpose of providing grants, loans, or loan guarantees to public or nonprofit community hospitals with 125 beds or fewer located in an urban area of the state.

(d) The comptroller may solicit and accept gifts and grants to the fund. A gift or grant to the fund may be appropriated in the same manner as available earnings of the fund, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

(e) Money in the fund may also be appropriated to pay any amount of money that the federal government determines that the state should repay to the federal government or that the federal government should recoup from the state in the event of national legislation regarding the subject matter of the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91, in the United States District Court, Eastern District of Texas.

(f) The Texas Board of Health may adopt rules governing any grant, loan, or loan guarantee program established under this section.

(g) A hospital eligible to receive a grant, loan, or loan guarantee under Subchapter G, Chapter 106, Health and Safety Code, is not eligible to receive a grant, loan, or loan guarantee under this section.

(h) Sections 403.095 and 404.071 do not apply to the fund.

Sec. 403.1067. RESTRICTIONS ON LOBBYING EXPENDITURES. (a) An organization, program, political subdivision, public institution of higher education, local community organization, or other entity receiving funds or grants from the permanent funds in Section 403.105, 403.1055, 403.106, 403.1065, or 403.1066 may not use the funds or grants to pay:

(1) lobbying expenses incurred by the recipient;

(2) a person or entity that is required to register with the Texas Ethics Commission under Chapter 305, Government Code;

(3) any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity described by Subdivision (2); or

(4) a person or entity who has been hired to represent associations or other entities for the purpose of affecting the outcome of legislation, agency rules, ordinances, or other government policies.

(b) The persons or entities described by Subsection (a) are not eligible to receive the money or participate either directly or indirectly in the contracts, funds, or grants awarded in Section 403.105, 403.1055, 403.106, 403.1065, or 403.1066.

(c) Grants or awards made under Section 403.105, 403.1055, 403.106, 403.1065, or 403.1066 may not be conditioned on the enactment of legislation, agency rules, or local ordinances.

Sec. 403.1068. MANAGEMENT OF CERTAIN FUNDS. (a) This section applies only to management of the permanent funds established under Sections 403.105, 403.1055, 403.106, 403.1065, and 403.1066.

(b) The comptroller shall manage the assets of each permanent fund. In managing the assets of a fund, the comptroller may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions the comptroller considers appropriate, any kind of investment that prudent investors, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment.

(c) The available earnings of each permanent fund consist of distributions made to the fund from the total return on all investment assets of the fund, including net income attributable to the surface of land held by the fund.

(d) The amount of any distributions to each fund under Subsection (c) shall be determined by the comptroller in a manner intended to provide a stable and predictable stream of annual distributions and to maintain over time the purchasing power of fund investments and annual distributions to the fund. If the purchasing power of fund investments for any 10-year period is not preserved, the comptroller may not increase annual distributions to the available earnings of the fund until the purchasing power of the fund investments is restored.

(e) An annual distribution made by the comptroller to the available earnings of a fund during any fiscal year may not exceed an amount equal to seven percent of the average net fair market value of the investment assets of each fund as determined by the comptroller.

(f) The expenses of managing land and investments of each fund shall be paid from each fund.

(g) On request, the comptroller shall fully disclose all details concerning the investments of each fund.

Sec. 403.1069. REPORTING REQUIREMENT. The department shall provide a report on the permanent funds established under this subchapter to the Legislative Budget Board no later than November 1 of each year. The report shall include the total amount of money distributed from each fund, the purpose for which the money was used, and any additional information that may be requested by the Legislative Budget Board.

SECTION 2. Chapter 106, Health and Safety Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. RURAL HEALTH FACILITY
CAPITAL IMPROVEMENT

Sec. 106.201. DEFINITIONS. In this subchapter:

(1) "Public hospital" means a general or special hospital licensed under Chapter 241 that is owned or operated by a municipality, county, municipality and county, hospital district, or hospital authority and that performs inpatient or outpatient services.

(2) "Rural county" means:

(A) a county that has a population of 150,000 or less; or

(B) with respect to a county that has a population of more than 150,000 and that contains a geographic area that is not delineated as urbanized by the federal census bureau, that part of the county that is not delineated as urbanized.

Sec. 106.202. POWERS OF CENTER. In administering this subchapter, the center may:

(1) enter into and enforce contracts and execute and deliver conveyances and other instruments necessary to make and administer grants, loans, and loan guarantees under this subchapter;

(2) employ personnel and counsel necessary to implement this subchapter and pay them from money in the fund appropriated for that purpose;

(3) impose and collect reasonable fees and charges in connection with grants, loans, and loan guarantees made under this subchapter and provide reasonable penalties for delinquent payment of fees, charges, or loan repayments;

(4) take and enforce a mortgage or appropriate security interest in real or personal property that a loan recipient acquires with the proceeds of a loan made under this subchapter; and

(5) adopt rules necessary to implement the grant, loan, and loan guarantee program.

Sec. 106.203. GRANT, LOAN, AND LOAN GUARANTEE PROGRAM.

(a) The center may use money appropriated to the center under Section 403.1065, Government Code, to make a grant or low interest loan to, or guarantee a loan for, a public or nonprofit hospital located in a rural county.

(b) A grant, loan, or loan guarantee recipient may use the money only to make capital improvements to existing health facilities located in a rural county, to construct new health facilities in a rural county, or to purchase capital equipment, including information systems hardware and software, for a health facility located in a rural county.

Sec. 106.204. ELIGIBILITY FOR GRANT, LOAN, OR LOAN GUARANTEE; INTEREST RATE. (a) The center shall adopt rules that establish eligibility criteria for receiving a grant, loan, or loan guarantee under this subchapter.

(b) The rules must state generally the factors the center will consider in determining whether an applicant should receive a grant, loan, or loan guarantee. The rules must allow the center to give preferential consideration to public hospitals and to consider at least the financial need of the applicant, the health care needs of the rural area served by the applicant, and the probability that the applicant will effectively and efficiently use the money obtained through the grant, loan, or loan guarantee to meet the health care needs of the rural area served by the applicant.

(c) The rules must state generally the factors the center will consider in determining the extent to which the interest rate on a loan should be below market rates.

SECTION 3. On the effective date of this Act, the comptroller shall transfer:

(1) \$200 million from tobacco proceeds in the general revenue fund to the permanent fund for tobacco education and enforcement established by Section 403.105, Government Code, as added by this Act;

(2) \$100 million from tobacco proceeds in the general revenue fund to the permanent fund for children and public health established by Section 403.1055, Government Code, as added by this Act;

(3) \$100 million from tobacco proceeds in the general revenue fund to the permanent fund for emergency medical services and trauma care established by Section 403.106, Government Code, as added by this Act;

(4) \$50 million from tobacco proceeds in the general revenue fund to the permanent fund for rural health facility capital improvement established by Section 403.1065, Government Code, as added by this Act; and

(5) \$25 million from tobacco proceeds in the general revenue fund to the community hospital capital improvement fund established by Section 403.1066, Government Code, as added by this Act.

SECTION 4. This Act takes effect August 31, 1999.

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 Junell moved to adopt the conference committee report on **HB 1676**.

The motion prevailed without objection.

HB 1945 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Junell submitted the following conference committee report on **HB 1945**:

Austin, Texas, May 23, 1999

Honorable Rick Perry
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 1945** 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.

Ratliff	Junell
Truan	West
Duncan	Coleman
Fraser	Gallego
Moncrief	Heflin
On the part of the Senate	On the part of the House

HB 1945, A bill to be entitled An Act relating to the creation of permanent funds for certain public health purposes conducted by institutions of higher education.

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

SECTION 1. Subtitle B, Title 3, Education Code, is amended by adding Chapter 63 to read as follows:

CHAPTER 63. PERMANENT FUNDS FOR HEALTH-RELATED
INSTITUTIONS OF HIGHER EDUCATION
SUBCHAPTER A. PERMANENT HEALTH FUND
FOR HIGHER EDUCATION

Sec. 63.001. PERMANENT HEALTH FUND FOR HIGHER EDUCATION.

(a) The permanent health fund for higher education is a special fund in the treasury outside the general revenue fund.

(b) The fund is composed of:

(1) money transferred to the fund at the direction of the legislature;

(2) gifts and grants contributed to the fund; and

(3) the returns received from investment of money in the fund.

Sec. 63.002. ADMINISTRATION AND USE OF FUND. (a) The board of regents of The University of Texas System shall administer the fund. The board may manage and invest the fund in the same manner as the board manages and invests other permanent endowments. In administering the fund, the board shall invest any funds in a manner that preserves the purchasing power of the fund's assets and the fund's annual distributions. The board shall determine the amount available for distribution from the fund in a manner consistent with the board's procedures for making distributions to other endowment beneficiaries. The amount available for distribution shall be determined by the investment and distribution policy for the fund's assets adopted by the board. Expenses of managing the fund's assets shall be paid from the fund.

(b) Except as provided by Subsections (c), (d), and (f), money in the fund may not be used for any purpose.

(c) The amount available for distribution from the fund may be appropriated only for programs that benefit medical research, health education, or treatment programs at the following health-related institutions of higher education:

(1) The University of Texas Health Science Center at San Antonio;

(2) The University of Texas M. D. Anderson Cancer Center;

(3) The University of Texas Southwestern Medical Center at Dallas;

(4) The University of Texas Medical Branch at Galveston;

(5) The University of Texas Health Science Center at Houston;

(6) The University of Texas Health Science Center at Tyler;

(7) The Texas A&M University Health Science Center;

(8) the University of North Texas Health Science Center at Fort

Worth;

(9) the Texas Tech University Health Sciences Center; and

(10) Baylor College of Medicine, if a contract between Baylor College of Medicine and the Texas Higher Education Coordinating Board is in effect under Section 61.092.

(d) The governing board of a health-related institution of higher education entitled to receive money under this subchapter may solicit and accept gifts and grants to the fund. A gift or grant to the fund shall be appropriated and distributed and may be used in the same manner as an amount appropriated under Section 63.003, subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

(e) Sections 403.095 and 404.071, Government Code, do not apply to the fund. Section 404.094(d), Government Code, applies to the fund.

(f) An institution of higher education that has accepted a gift under Subchapter I, Chapter 51, that was conditioned on the receipt by the institution of state matching funds from the eminent scholars fund may use money the institution receives under this subchapter to provide the state matching funds, treating that amount as if it were a distribution to the institution from the eminent scholars fund for purposes of Subchapter I, Chapter 51.

Sec. 63.003. ALLOCATION OF DISTRIBUTION. (a) The legislature shall appropriate the amount available for distribution from the fund to the health-related institutions of higher education listed in Section 63.002(c). The amount appropriated shall be distributed as follows:

(1) 70 percent shall be distributed in equal amounts to each institution; and

(2) the remaining amount shall be distributed in equal amounts for each of the following categories, with each institution receiving a share in each category proportionate to the amount that the institution spent in that category in the preceding fiscal biennium as determined by the institution's annual financial report, compared to the total spending of every institution listed in Section 63.002(c) in that category in the preceding biennium:

(A) instructional expenditures;

(B) research expenditures; and

(C) unsponsored charity care.

(b) The amount appropriated under Subsection (a) shall be distributed quarterly by the comptroller to each health-related institution of higher education.

(c) The Legislative Budget Board shall make any necessary determination of each institution's portion of an amount appropriated under Subsection (a)(2) and shall provide that information to the legislature and the comptroller.

(d) For the purposes of this section, Baylor College of Medicine may receive funds under Subsection (a)(2) only if the institution provides the comptroller with an independently audited schedule of information that substantially complies with the reporting requirements issued by the comptroller for other eligible institutions under Subsection (a)(2). Information under this subsection must be supplied not later than the time other eligible institutions are required to submit similar information.

Sec. 63.004. REPORTING REQUIREMENT. An institution receiving a distribution from the permanent fund established under this subchapter shall provide a report to the Legislative Budget Board no later than November 1 of each year. The report shall include the total amount of money the institution received from the fund, the purpose for which the money was used,

and any additional information that may be requested by the Legislative Budget Board.

[Sections 63.005-63.100 reserved for expansion]
SUBCHAPTER B. PERMANENT FUNDS FOR
HEALTH-RELATED INSTITUTIONS

Sec. 63.101. CREATION OF FUNDS. (a) A separate permanent endowment fund is established for the benefit of each of the following institutions of higher education:

- (1) The University of Texas Health Science Center at San Antonio;
- (2) The University of Texas M. D. Anderson Cancer Center;
- (3) The University of Texas Southwestern Medical Center at Dallas;
- (4) The University of Texas Medical Branch at Galveston;
- (5) The University of Texas Health Science Center at Houston;
- (6) The University of Texas Health Science Center at Tyler;
- (7) The University of Texas at El Paso;
- (8) The Texas A&M University Health Science Center;
- (9) the University of North Texas Health Science Center at Fort

Worth:

(10) the components of the Texas Tech University Health Sciences Center located in El Paso;

(11) the components of the Texas Tech University Health Sciences Center at locations other than El Paso;

(12) the regional academic health center established under Section 74.611; and

(13) Baylor College of Medicine, if a contract between Baylor College of Medicine and the Texas Higher Education Coordinating Board is in effect under Section 61.092.

(b) Each separate permanent endowment fund is a special fund in the treasury outside the general revenue fund.

(c) Each separate permanent endowment fund is composed of:

- (1) money transferred to the fund at the direction of the legislature;
- (2) gifts and grants contributed to the fund; and
- (3) the returns received from investment of money in the fund.

Sec. 63.102. ADMINISTRATION AND USE OF FUNDS. (a) The governing board of an institution or component for which a fund is established under this subchapter may administer the fund of that institution. If a governing board elects not to administer the fund, the comptroller shall administer the fund. The administrator of a fund established under this subchapter shall invest the fund in a manner intended to preserve the purchasing power of the fund's assets and the fund's annual distributions. Annual distributions for any fund shall be determined by the investment and distribution policy adopted by the administrator of the fund for the fund's assets. Expenses of managing the assets of a fund shall be paid from the fund. If a governing board administers a fund, the governing board may manage and invest the fund in the same manner as the board manages and invests other permanent endowments, and the board shall make distributions from the fund in a manner consistent with the board's procedures for making distributions to other endowment beneficiaries. If the comptroller administers a fund, the comptroller may acquire, exchange, sell, supervise, manage, or

retain, through procedures and subject to restrictions the comptroller considers appropriate, any kind of investment of the fund's assets that prudent investors, exercising reasonable care, skill, and caution, would acquire or retain in light of the purposes, terms, distribution requirements, and other circumstances of the fund then prevailing, taking into consideration the investment of all the assets of the fund rather than a single investment.

(b) Except as provided by Subsections (c), (d), and (f), money in a fund established under this subchapter may not be used for any purpose.

(c) The amount available for distribution from each fund may be appropriated only for research and other programs that are conducted by the institution or components for which the fund is established and that benefit the public health. The comptroller or the governing board shall report to the legislature the amount of funds that are eligible for appropriation. An amount appropriated from the fund established for The University of Texas Health Science Center at San Antonio may be used to establish, maintain, and operate a children's cancer center and the campus extension in the city of Laredo. An amount appropriated from the funds established for the components of the Texas Tech University Health Sciences Center located in El Paso and for The University of Texas at El Paso may be used for the establishment and operation of an institute of public health in El Paso. An amount appropriated from the fund established for the components of the Texas Tech University Health Sciences Center at locations other than El Paso may be used for research and other programs that benefit the public health in areas outside El Paso. An amount appropriated from the fund established for The Texas A&M University Health Science Center may be used for the establishment and operation of the Coastal Bend Health Education Center in Corpus Christi.

(d) The comptroller or the governing board of an institution or component may solicit and accept gifts and grants to the institution's or component's fund. A gift or grant to the fund may be expended and used in the same manner as an amount distributed from the fund under Subsection (c), subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

(e) Sections 403.095 and 404.071, Government Code, do not apply to a fund established under this subchapter. Section 404.094(d), Government Code, applies to the fund.

(f) An institution of higher education that has accepted a gift under Subchapter I, Chapter 51, that was conditioned on the receipt by the institution of state matching funds from the eminent scholars fund may use money the institution receives under this subchapter to provide the state matching funds, treating that amount as if it were a distribution to the institution from the eminent scholars fund for purposes of Subchapter I, Chapter 51.

Sec. 63.103. REPORTING REQUIREMENT. Each institution listed in Section 63.101 shall provide a report on the permanent fund established under this subchapter for the benefit of the institution to the Legislative Budget Board no later than November 1 of each year. The report shall include the total amount of money the institution received from the fund, the purpose for

which the money was used, and any additional information that may be requested by the Legislative Budget Board.

[Sections 63.104-63.200 reserved for expansion]

SUBCHAPTER C. PERMANENT FUND FOR
HIGHER EDUCATION NURSING,

ALLIED HEALTH, AND OTHER HEALTH-RELATED PROGRAMS

Sec. 63.201. PERMANENT FUND FOR HIGHER EDUCATION NURSING, ALLIED HEALTH, AND OTHER HEALTH-RELATED PROGRAMS. (a) The permanent fund for higher education nursing, allied health, and other health-related programs is a special fund in the treasury outside the general revenue fund.

(b) The fund is composed of:

- (1) money transferred to the fund at the direction of the legislature;
- (2) gifts and grants contributed to the fund; and
- (3) the returns received from investment of money in the fund.

Sec. 63.202. ADMINISTRATION AND USE OF FUND. (a) The comptroller may contract with the governing board of any institution or component that is eligible to receive a grant under Subsection (c) to administer the fund. If a governing board administers the fund, the governing board may manage and invest the money in the fund in the same manner as the board manages and invests other permanent endowments. The administrator of the fund shall invest any fund in a manner that preserves the purchasing power of the fund's assets and the fund's annual distributions.

(b) Except as provided by Subsections (c) and (d), money in the fund established under this subchapter may not be used for any purpose.

(c) The investment returns of the fund may be appropriated to the Texas Higher Education Coordinating Board for the purpose of providing grants to public institutions of higher education that offer upper-level academic instruction and training in the field of nursing, allied health, or other health-related education. The coordinating board shall adopt rules relating to the award of grants under this subchapter and may, in awarding grants, consider the impact the grant will have on academic instruction and training in the field of nursing, allied health, or other health-related education in this state. An institution or component that is eligible to receive funding under Subchapter A or B is not eligible to receive a grant under this subchapter. The comptroller or the governing board shall report to the legislature the amount of funds that are available for appropriation under this section.

(d) The comptroller or the governing board that administers the fund may solicit and accept gifts and grants for the benefit of the fund. A gift or grant to the fund may be expended and used in the same manner as the investment returns of the fund under Subsection (c), subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

(e) Sections 403.095 and 404.071, Government Code, do not apply to a fund established under this subchapter.

Sec. 63.203. REPORTING REQUIREMENT. The Texas Higher Education Coordinating Board shall provide a report on the permanent fund established under this subchapter to the Legislative Budget Board no later than November 1 of each year. The report shall include the total amount of money

distributed from the fund, the names of the institutions receiving grants, the purpose for which the grants were used, and any additional information that may be requested by the Legislative Budget Board.

[Sections 63.204-63.300 reserved for expansion]

SUBCHAPTER D. PERMANENT FUND FOR MINORITY HEALTH
RESEARCH AND EDUCATION

Sec. 63.301. PERMANENT FUND FOR MINORITY HEALTH RESEARCH AND EDUCATION. (a) The permanent fund for minority health research and education is a special fund in the treasury outside the general revenue fund.

(b) The fund is composed of:

- (1) money transferred to the fund at the direction of the legislature;
- (2) gifts and grants contributed to the fund; and
- (3) the returns received from investment of money in the fund.

Sec. 63.302. ADMINISTRATION AND USE OF FUND. (a) The comptroller may contract with the governing board of any institution or component that is eligible to receive a grant under Subsection (c) to administer the fund. If a governing board administers the fund, the governing board may manage and invest the money in the same manner as the board manages and invests other permanent funds. The administrator of the fund shall invest any fund in a manner that preserves the purchasing power of the fund's assets and the fund's annual distributions.

(b) Except as provided by Subsections (c) and (e), money in the fund established under this subchapter may not be used for any purpose.

(c) The investment returns of the fund may be appropriated to the Texas Higher Education Coordinating Board for the purpose of providing grants to institutions of higher education, including Centers for Teacher Education, that conduct research or educational programs that address minority health issues or form partnerships with minority organizations, colleges, or universities to conduct research and educational programs that address minority health issues.

(d) The coordinating board shall adopt rules relating to the award of grants under this subchapter.

(e) The comptroller or governing board that administers the fund may solicit and accept gifts and grants for the benefit of the fund. A gift or grant to the fund may be expended and used in the same manner as the investment returns of the fund under Subsection (c), subject to any limitation or requirement placed on the gift or grant by the donor or granting entity.

(f) The coordinating board shall report to the legislature annually the total amount of funds awarded and a brief description of each grant, including the name of the institution receiving the grant, the amount and purpose of the grant, and the partnership formed to conduct the research or educational programs authorized under Subsection (c).

(g) Sections 403.095 and 404.071, Government Code, do not apply to a fund established under this subchapter.

SECTION 2. Section 61.092, Education Code, is amended to read as follows:

Sec. 61.092. CONTRACTS WITH BAYLOR COLLEGE OF MEDICINE.

(a) The board may contract with Baylor College of Medicine for the

administration, direction, and performance of all services and the provision, maintenance, operation, and repair of all buildings, facilities, structures, equipment, and materials necessary or proper to the education, training, preparation, or instruction of bona fide Texas resident undergraduate medical students.

(b) Funds received by Baylor College of Medicine under Subchapter A or B, Chapter 63, may be used only to support programs that benefit medical research, health education, or treatment programs at the institution.

(c) If Baylor College of Medicine elects to administer the fund established for the institution under Subchapter B, Chapter 63, Baylor College of Medicine and the board must enter into a contract that requires Baylor College of Medicine to administer the fund in the same manner and subject to the same regulations, including disclosure requirements, as would apply to the comptroller if the comptroller were administering a fund under Subchapter B, Chapter 63.

(d) This [~~However, nothing in this~~] subchapter may not be construed to empower the board to limit, alter, modify, or in any other manner change or approve, or negotiate for changes in or approval of, the administration, direction, and performance of these services or the provision, maintenance, operation, and repair of buildings, facilities, structures, equipment, or materials.

SECTION 3. (a) On the effective date of this Act, the comptroller shall transfer \$350 million from the general revenue fund to the permanent health fund for higher education established by Subchapter A, Chapter 63, Education Code, as added by this Act.

(b) On the effective date of this Act, the comptroller shall transfer from the general revenue fund to the separate permanent endowment trust fund established by Subchapter B, Chapter 63, Education Code, as added by this Act, for each of the following institutions of higher education or components of an institution of higher education the following amounts:

(1) The University of Texas Health Science Center at San Antonio - \$200 million;

(2) The University of Texas M. D. Anderson Cancer Center - \$100 million;

(3) The University of Texas Southwestern Medical Center at Dallas - \$50 million;

(4) The University of Texas Medical Branch at Galveston - \$25 million;

(5) The University of Texas Health Science Center at Houston - \$25 million;

(6) The University of Texas Health Science Center at Tyler - \$25 million;

(7) The University of Texas at El Paso - \$25 million;

(8) The Texas A&M University Health Science Center - \$25 million;

(9) the University of North Texas Health Science Center at Fort Worth - \$25 million;

(10) the components of the Texas Tech University Health Sciences Center located in El Paso - \$25 million;

(11) the components of the Texas Tech University Health Sciences Center at locations other than El Paso - \$25 million;

(12) the regional academic health center established under Section 74.611, Education Code - \$20 million; and

(13) Baylor College of Medicine - \$25 million.

(c) On the effective date of this Act, the comptroller shall transfer \$45 million from the general revenue fund to the permanent fund for higher education nursing, allied health, and other health-related programs established by Subchapter C, Chapter 63, Education Code, as added by this Act.

(d) On the effective date of this Act, the comptroller shall transfer \$25 million from the general revenue fund to the permanent fund for minority health research and education established by Subchapter D, Chapter 63, Education Code, as added by this Act.

(e) On the effective date of this Act, the comptroller shall transfer \$1 million from the general revenue fund to the Texas Higher Education Coordinating Board to fund a contract with the Baylor University Medical Center in Dallas for the Institute of Metabolic Disease to study the relationship of maternal smoking and metabolic derangements to the impaired growth rate in low-weight infants, and for the Division of Prevention and Wellness to support an antitobacco task force. If the coordinating board enters into a contract under this subsection, the coordinating board shall enter into the contract in the same manner as a contract entered into under Section 61.092, Education Code, as amended by this Act.

(f) In addition to the permissible appropriations and uses of the funds transferred to the permanent funds for health-related institutions established under Chapter 63, Education Code, as added by this Act, the funds may also be appropriated by the legislature to pay any amount of money that the federal government determines that the state should repay to the federal government or that the federal government should recoup from the state in the event of national legislation regarding the subject matter of the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91, in the United States District Court, Eastern District of Texas.

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 Junell moved to adopt the conference committee report on **HB 1945**.

The motion prevailed without objection.

HB 1161 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Junell called up with senate amendments for consideration at this time,

HB 1161, A bill to be entitled An Act relating to the tobacco settlement permanent trust account.

On motion of Representative Junell, the house concurred in the senate amendments to **HB 1161**.

Senate Committee Substitute

CSHB 1161. A bill to be entitled An Act relating to the tobacco settlement permanent trust account.

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

ARTICLE 1. DUTIES OF THE COMPTROLLER

SECTION 1.01. Subchapter G, Chapter 403, Government Code, is amended by adding Sections 403.1041, 403.1042, 403.1043, and 403.1044 to read as follows:

Sec. 403.1041. TOBACCO SETTLEMENT PERMANENT TRUST ACCOUNT. (a) In this section and Sections 403.1042, 403.1043, and 403.1044:

(1) "Account" means the tobacco settlement permanent trust account established under the agreement.

(2) "Advisory committee" means the tobacco settlement permanent trust account investment advisory committee.

(3) "Agreement" means the Agreement Regarding Disposition of Settlement Proceeds filed on July 24, 1998, in the United States District Court, Eastern District of Texas, in the case styled The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91. The term includes the subsequent Clarification of Agreement Regarding Disposition of Settlement Proceeds filed on July 24, 1998, in that litigation.

(4) "Department" means the Texas Department of Health.

(5) "Political subdivision" means:

(A) a hospital district;

(B) another local political subdivision that owns or maintains a public hospital; or

(C) a county of this state responsible for providing indigent health care to the general public.

(b) With the advice of and in consultation with the advisory committee, the comptroller shall administer the account and shall manage the assets of the account.

(c) In managing the assets of the account, the comptroller, with the advice of and in consultation with the advisory committee, may acquire, exchange, sell, supervise, manage, or retain, through procedures and subject to restrictions the comptroller establishes and in amounts the comptroller considers appropriate, any kind of investment that a person of ordinary prudence, discretion, and intelligence, exercising the judgment and care under the circumstances prevailing at that time, would acquire or retain for the person's own account in the management of the person's affairs, not in regard to speculation but in regard to the permanent disposition of the person's money, considering the probable income as well as the probable safety of the capital. Investment and management decisions concerning individual investments must be evaluated not in isolation but in the context of the investment portfolio as a whole and as part of an overall investment strategy consistent with the investment objectives of the account.

(d) The account is a trust account with the comptroller and is composed of money paid to the account in accordance with the agreement, assets purchased with that money, the earnings of the account, and any other

contributions made to the account. The corpus of the account shall remain in the account and may not be distributed for any purpose. The money and other assets contained in the account are not a part of the general funds of the state. The comptroller may appoint one or more commercial banks, depository trust companies, or other entities to serve as a custodian of the account's assets. Section 404.071 does not apply to the account.

(e) The comptroller, with the advice of and in consultation with the advisory committee, may use the earnings of the account for any investment expense, including to obtain the advice of appropriate investment consultants for managing the assets in the account.

(f) Subject to Section 403.1044, on certification by the department under Subchapter J, Chapter 12, Health and Safety Code, the comptroller shall make an annual distribution of the net earnings from the account to each eligible political subdivision as provided in the agreement regarding disposition of settlement proceeds.

(g) Before December 1 of each year the comptroller shall prepare a written report regarding the account during the fiscal year ending on the preceding August 31. Not later than January 1 of each year the comptroller shall distribute the report to the advisory committee, the governor, the lieutenant governor, the state auditor, the attorney general, and the Legislative Budget Board. The comptroller shall furnish a copy of the report to any member of the legislature or other interested person on request. The report must include:

(1) statements of assets and a schedule of changes in book value of the investments from the account;

(2) a summary of the gains, losses, and income from investments on August 31;

(3) an itemized list of the securities held for the account on August 31; and

(4) any other information needed to clearly indicate the nature and extent of the investments made of the account and the income realized from the components of the account.

(h) The comptroller shall adopt rules necessary to implement the comptroller's duties under this section, including rules distinguishing the net earnings of the account that may be distributed under Subsection (f) from earnings used for investment expenses under Subsection (e) and from the money and assets that are the corpus of the account. A rule adopted by the comptroller under this subsection must be submitted to the advisory committee and may not become effective before the rule is approved by the advisory committee. If the advisory committee disapproves a proposed rule, the advisory committee shall provide the comptroller the specific reasons that the rule was disapproved.

Sec. 403.1042. TOBACCO SETTLEMENT PERMANENT TRUST ACCOUNT INVESTMENT ADVISORY COMMITTEE. (a) The tobacco settlement permanent trust account investment advisory committee shall advise the comptroller with respect to managing the assets of the tobacco settlement permanent trust account. The committee shall provide the comptroller guidance with respect to the investment philosophy that should be pursued

in managing these assets and the extent to which, at any particular time, the assets should be managed to maximize growth of the corpus or to maximize earnings. Except as provided by Section 403.1041(h), the advisory committee serves in an advisory capacity only and is not a fiduciary with respect to the account.

(b) The advisory committee is composed of 11 members appointed by the advisory committee as follows:

(1) one member nominated by the comptroller to represent a public hospital or hospital district located in a county with a population of 50,000 or less or a public hospital owned or maintained by a municipality;

(2) one member nominated by the political subdivision that, in the year preceding the appointment, received the largest annual distribution paid from the account;

(3) one member nominated by the political subdivision that, in the year preceding the appointment, received the second largest annual distribution paid from the account;

(4) four members nominated by political subdivisions that:

(A) in the year preceding the appointment, received the 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, or 12th largest annual distribution paid from the account; and

(B) do not have a nominee serving on the advisory committee at the time of appointment;

(5) one member nominated by the County Judges and Commissioners Association of Texas;

(6) one member nominated by the North and East Texas County Judges and Commissioners Association;

(7) one member nominated by the South Texas County Judges and Commissioners Association; and

(8) one member nominated by the West Texas County Judges and Commissioners Association.

(c) A commissioners court that sets the tax rate for a hospital district must approve any person nominated by the hospital district to serve on the advisory committee.

(d) The advisory committee shall elect the officers of the committee from among the members of the committee.

(e) Members of the advisory committee serve staggered six-year terms expiring on August 31 of each odd-numbered year.

(f) An individual or entity authorized to make an appointment or nominate someone for appointment to the advisory committee created under this section shall attempt to appoint or nominate persons who represent the gender composition, minority populations, and geographic regions of the state.

(g) Members of the advisory committee serve without compensation from the trust fund or the state and may not be reimbursed from the trust fund or the state for travel expenses incurred while conducting the business of the advisory committee.

(h) The comptroller shall provide administrative support and resources to the advisory committee as necessary for the advisory committee to perform the advisory committee's duties under this section and Section 403.1041.

(i) Chapter 2110 does not apply to the advisory committee.

Sec. 403.1043. RESTRICTIONS ON LOBBYING EXPENDITURES. (a) A political subdivision receiving a distribution under Section 403.1041(f) may not use the distribution to pay:

(1) lobbying expenses incurred by the recipient of the distribution;

(2) a person or entity that is required to register with the Texas Ethics Commission under Chapter 305, Government Code;

(3) any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity described by Subdivision (2); or

(4) a person or entity who has been hired to represent associations or other entities for the purpose of affecting the outcome of legislation, agency rules, ordinances, or other government policies.

(b) The persons or entities described by Subsection (a) are not eligible to receive the money or participate either directly or indirectly in the distributions made under Section 403.1041(f).

Sec. 403.1044. USE OF CERTAIN FUNDS. (a) In this section, "state hospital or clinic" means:

(1) any state teaching hospital or clinic under the governance and administration of the board of regents of The University of Texas System, including a hospital or clinic operated at:

(A) The University of Texas Medical Branch at Galveston;

(B) The University of Texas M. D. Anderson Cancer Center;

and

(C) The University of Texas Health Science Center at Tyler;

and

(2) the South Texas Hospital.

(b) Except as provided by Subsection (e), a political subdivision that has received a distribution under Section 403.1041 shall use the distribution as necessary to reimburse a state hospital or clinic for any certified unreimbursed health care expenditure that:

(1) the hospital or clinic made for providing health care treatment to residents of the political subdivision who were eligible for state assistance under Chapter 61, Health and Safety Code; and

(2) was made in the year for which the distribution was received.

(c) A state hospital or clinic that has made unreimbursed health care expenditures described in Subsection (b) shall submit information relating to those expenditures as required by the Texas Department of Health. Not later than the 120th day after the date the hospital or clinic has submitted the information to the department, the department shall certify to the comptroller, the hospital or clinic, and the political subdivision the amount of unreimbursed health care expenses described by Subsection (b) that have been incurred by the hospital or clinic on behalf of the political subdivision.

(d) After receiving a certification of money owed under this section, the comptroller may not make a subsequent annual distribution to a political subdivision until the state hospital or clinic notifies the comptroller that the amount certified under this section has been paid or that the debt has been settled and all claims against the political subdivision for the debt have been released.

(e) A political subdivision is not required to pay the unreimbursed health care expenditures of the South Texas Hospital to the extent that those expenditures relate to the care and treatment of patients with tuberculosis.

SECTION 1.02. (a) Notwithstanding Section 403.1042(b), Government Code, as added by this Act, the initial tobacco settlement permanent trust account investment advisory committee is composed of the following 11 members:

(1) one member appointed by the comptroller to represent a public hospital or hospital district located in a county with a population of 50,000 or less or a public hospital owned or maintained by a municipality that is not otherwise represented under this subsection, for a term expiring August 31, 2003;

(2) one member appointed by the Harris County Commissioners Court for a term expiring August 31, 2001;

(3) one member appointed by the Dallas County Commissioners Court for a term expiring August 31, 2001;

(4) one member appointed by the Tarrant County Hospital District for a term expiring August 31, 2005;

(5) one member appointed by the El Paso County Hospital District for a term expiring August 31, 2005;

(6) one member appointed by the Nueces County Commissioners Court for a term expiring August 31, 2005;

(7) one member appointed by the Montgomery County Hospital District for a term expiring August 31, 2005;

(8) one member appointed by the County Judges and Commissioners Association of Texas for a term expiring August 31, 2001;

(9) one member appointed by the North and East Texas County Judges and Commissioners Association for a term expiring August 31, 2003;

(10) one member appointed by the South Texas County Judges and Commissioners Association for a term expiring August 31, 2003; and

(11) one member appointed by the West Texas County Judges and Commissioners Association for a term expiring August 31, 2003.

(b) On the expiration of the term of the member appointed under Subsection (a)(1) of this section, the advisory committee shall fill the vacancy under Section 403.1042(b)(1), Government Code, as added by this Act.

(c) On the expiration of the term of the member appointed under Subsection (a)(2) of this section, the advisory committee shall fill the vacancy under Section 403.1042(b)(2), Government Code, as added by this Act.

(d) On the expiration of the term of the member appointed under Subsection (a)(3) of this section, the advisory committee shall fill the vacancy under Section 403.1042(b)(3), Government Code, as added by this Act.

(e) On the expiration of the term of a member appointed under Subsection (a)(4), (5), (6), or (7) of this section, the advisory committee shall fill the vacancy under Section 403.1042(b)(4), Government Code, as added by this Act.

(f) On the expiration of the term of the member appointed under Subsection (a)(8) of this section, the advisory committee shall fill the vacancy under Section 403.1042(b)(5), Government Code, as added by this Act.

(g) On the expiration of the term of the member appointed under Subsection (a)(9) of this section, the advisory committee shall fill the vacancy under Section 403.1042(b)(6), Government Code, as added by this Act.

(h) On the expiration of the term of the member appointed under Subsection (a)(10) of this section, the advisory committee shall fill the vacancy under Section 403.1042(b)(7), Government Code, as added by this Act.

(i) On the expiration of the term of the member appointed under Subsection (a)(11) of this section, the advisory committee shall fill the vacancy under Section 403.1042(b)(8), Government Code, as added by this Act.

SECTION 1.03. Not later than the 30th day after the effective date of this Act:

(1) each appointing authority shall make the appointment to the tobacco settlement permanent trust account investment committee required by Section 1.02(a) of this Act; and

(2) the comptroller shall notify the appointees of the time and place of the first meeting of the advisory committee.

ARTICLE 2. DUTIES OF THE TEXAS DEPARTMENT OF HEALTH

SECTION 2.01. Chapter 12, Health and Safety Code, is amended by adding Subchapter J to read as follows:

SUBCHAPTER J. TOBACCO SETTLEMENT PROCEEDS

Sec. 12.131. DEFINITIONS. In this subchapter:

(1) "Account" has the meaning assigned by Section 403.1041, Government Code.

(2) "Advisory committee" means the tobacco settlement permanent trust account administration advisory committee.

(3) "Agreement" has the meaning assigned by Section 403.1041, Government Code.

(4) "Political subdivision" has the meaning assigned by Section 403.1041, Government Code.

Sec. 12.132. CERTIFICATION TO COMPTROLLER. The department shall collect information relating to the unreimbursed health care expenditures of each political subdivision and, based on that information and using the formula established in Paragraph 5.B. of the agreement, shall certify to the comptroller the percentage of each annual distribution to be paid from the account to each political subdivision.

Sec. 12.133. COLLECTION OF INFORMATION. (a) Each political subdivision shall submit to the department, in the manner and at the time required by the department, information that relates to the political subdivision's unreimbursed health care expenditures and is required by the department to make the certification under Section 12.132.

(b) Subject to the approval of the advisory committee, the board shall adopt rules governing the collection of information under Subsection (a). The rules may provide for regular audits of randomly selected political subdivisions and may govern the manner in which a political subdivision is selected for an audit and the selection of an auditor.

Sec. 12.134. DISPUTES RELATING TO INFORMATION COLLECTED.

(a) Subject to the approval of the advisory committee, the board shall adopt rules under which a political subdivision or agency of this state may dispute information submitted by a political subdivision under Section 12.133.

(b) The rules may provide for:

(1) an audit of the political subdivision that submitted the disputed information;

(2) payment of the costs of the audit by the party to the dispute who does not prevail in the dispute;

(3) a deadline for filing a dispute for a particular year; and

(4) a reasonable monetary penalty to be applied to a subsequent annual distribution made to a political subdivision that is found to have overstated unreimbursed health care expenditures in the information submitted under Section 12.133.

(c) The monetary penalty applied under Subsection (b)(4) may not exceed 10 percent of the amount of the overstatement of unreimbursed health care costs.

(d) A dispute under this section is a contested case for purposes of Chapter 2001, Government Code.

Sec. 12.135. EFFECT OF DISPUTE. A dispute filed under department rules adopted under Section 12.134 does not affect the percentage of the annual distribution of the earnings from the account to be paid to the political subdivision for the year for which the information that is the subject of the dispute was submitted.

Sec. 12.136. ADJUSTMENT FOLLOWING AUDIT. (a) If the board finds, after an audit conducted under Section 12.133 or 12.134, that a political subdivision has overstated unreimbursed health care expenditures in the information submitted under Section 12.133 for any year, the department shall report that fact to the comptroller and shall reduce that political subdivision's percentage of the subsequent annual distribution of the earnings from the account appropriately.

(b) If a monetary penalty is applied under Section 12.134, the department shall also reduce the political subdivision's percentage of the subsequent annual distribution of the earnings from the account appropriately.

(c) If a political subdivision is assessed the cost of an audit under Section 12.134, the department shall report the amount assessed to the comptroller, and the comptroller may withhold that amount from the political subdivision's subsequent annual distribution. The comptroller may use the amount withheld to reimburse the general revenue fund for the cost of the audit.

Sec. 12.137. TOBACCO SETTLEMENT PERMANENT TRUST ACCOUNT ADMINISTRATION ADVISORY COMMITTEE. (a) The tobacco settlement permanent trust account administration advisory committee shall advise the board on the implementation of the department's duties under this subchapter.

(b) The advisory committee is composed of 11 members appointed by the advisory committee as follows:

(1) one member nominated by the board to represent a public hospital or hospital district located in a county with a population of 50,000 or less or a public hospital owned or maintained by a municipality;

(2) one member nominated by the political subdivision that, in the year preceding the appointment, received the largest annual distribution paid from the account;

(3) one member nominated by the political subdivision that, in the year preceding the appointment, received the second largest annual distribution paid from the account;

(4) four members nominated by political subdivisions that:

(A) in the year preceding the appointment, received the 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th, 11th, or 12th largest annual distribution paid from the account; and

(B) do not have a nominee serving on the advisory committee at the time of appointment;

(5) one member nominated by the County Judges and Commissioners Association of Texas;

(6) one member nominated by the North and East Texas County Judges and Commissioners Association;

(7) one member nominated by the South Texas County Judges and Commissioners Association; and

(8) one member nominated by the West Texas County Judges and Commissioners Association.

(c) A commissioners court that sets the tax rate for a hospital district must approve any person nominated by the hospital district to serve on the advisory committee.

(d) The advisory committee shall elect the officers of the committee from among the members of the committee.

(e) The advisory committee may act only on the affirmative votes of eight members of the committee.

(f) Members of the advisory committee serve staggered six-year terms expiring on August 31 of each odd-numbered year.

(g) Appointments to the advisory committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(h) A member of the advisory committee may not receive compensation from the trust fund or the state for service on the advisory committee and may not be reimbursed from the trust fund or the state for travel expenses incurred while conducting the business of the advisory committee.

(i) The department shall provide administrative support and resources to the advisory committee as necessary for the advisory committee to perform the advisory committee's duties under this subchapter.

(j) Chapter 2110, Government Code, does not apply to the advisory committee.

Sec. 12.138. APPROVAL OF RULES. A rule to be adopted by the board relating to certification of a percentage of an annual distribution under Section 12.132 or collection of information under Sections 12.132, 12.133, and 12.134 must be submitted to the advisory committee and may not become effective before the rule is approved by the advisory committee. If the advisory committee disapproves a proposed rule, the advisory committee shall provide the board the specific reasons that the rule was disapproved.

Sec. 12.139. ANNUAL REVIEW. The advisory committee shall annually:

(1) review the results of any audit conducted under this subchapter and the results of any dispute filed under Section 12.134; and

(2) review the rules adopted by the board under this subchapter and propose any amendments to the rules the advisory committee considers necessary.

SECTION 2.02. (a) Notwithstanding Section 12.137(b), Health and Safety Code, as added by this Act, the initial tobacco settlement permanent trust account administration advisory committee is composed of the following 11 members:

(1) one member appointed by the Texas Board of Health to represent a public hospital or hospital district located in a county with a population of 50,000 or less or a public hospital owned or maintained by a municipality that is not otherwise represented under this subsection, for a term expiring August 31, 2003;

(2) one member appointed by the Harris County Commissioners Court for a term expiring August 31, 2001;

(3) one member appointed by the Dallas County Commissioners Court for a term expiring August 31, 2001;

(4) one member appointed by the Tarrant County Hospital District for a term expiring August 31, 2005;

(5) one member appointed by the El Paso County Hospital District for a term expiring August 31, 2005;

(6) one member appointed by the Nueces County Commissioners Court for a term expiring August 31, 2005;

(7) one member appointed by the Montgomery County Hospital District for a term expiring August 31, 2005;

(8) one member appointed by the County Judges and Commissioners Association of Texas for a term expiring August 31, 2001;

(9) one member appointed by the North and East Texas County Judges and Commissioners Association for a term expiring August 31, 2003;

(10) one member appointed by the South Texas County Judges and Commissioners Association for a term expiring August 31, 2003; and

(11) one member appointed by the West Texas County Judges and Commissioners Association for a term expiring August 31, 2003.

(b) On the expiration of the term of the member appointed under Subsection (a)(1) of this section, the advisory committee shall fill the vacancy under Section 12.137(b)(1), Health and Safety Code, as added by this Act.

(c) On the expiration of the term of the member appointed under Subsection (a)(2) of this section, the advisory committee shall fill the vacancy under Section 12.137(b)(2), Health and Safety Code, as added by this Act.

(d) On the expiration of the term of the member appointed under Subsection (a)(3) of this section, the advisory committee shall fill the vacancy under Section 12.137(b)(3), Health and Safety Code, as added by this Act.

(e) On the expiration of the term of a member appointed under Subsection (a)(4), (5), (6), or (7) of this section, the advisory committee shall fill the vacancy under Section 12.137(b)(4), Health and Safety Code, as added by this Act.

(f) On the expiration of the term of the member appointed under Subsection (a)(8) of this section, the advisory committee shall fill the vacancy under Section 12.137(b)(5), Health and Safety Code, as added by this Act.

(g) On the expiration of the term of the member appointed under Subsection (a)(9) of this section, the advisory committee shall fill the vacancy under Section 12.137(b)(6), Health and Safety Code, as added by this Act.

(h) On the expiration of the term of the member appointed under Subsection (a)(10) of this section, the advisory committee shall fill the vacancy under Section 12.137(b)(7), Health and Safety Code, as added by this Act.

(i) On the expiration of the term of the member appointed under Subsection (a)(11) of this section, the advisory committee shall fill the vacancy under Section 12.137(b)(8), Health and Safety Code, as added by this Act.

SECTION 2.03. Not later than the 30th day after the effective date of this Act:

(1) each appointing authority shall make the appointment to the tobacco settlement permanent trust account administration committee required by Section 2.02(a) of this Act; and

(2) the commissioner of public health shall notify the appointees of the time and place of the first meeting of the advisory committee.

SECTION 2.04. (a) In this section:

(1) "Account" has the meaning assigned by Section 403.1041, Government Code, as added by this Act.

(2) "Agreement" has the meaning assigned by Section 403.1041, Government Code, as added by this Act.

(3) "Lump sum trust account" means the lump sum trust account established under the agreement.

(b) The Texas Department of Health may collect information under Section 12.133, Health and Safety Code, as added by this Act, and may make the certification described by Section 12.132, Health and Safety Code, as added by this Act, with respect to the pro rata lump sum distributions to be made in 2000 and 2001 under Paragraph 5.B. of the agreement.

(c) Subchapter J, Chapter 12, Health and Safety Code, as added by this Act, applies to the information to be collected under this section in the same manner that it applies to information collected with respect to distributions to be made from the account.

(d) To the extent that, in accordance with Section 12.136, Health and Safety Code, as added by this Act, the Texas Board of Health finds an overstatement of unreimbursed health care expenditures in the information collected under this section for the pro rata lump sum distribution or if a monetary penalty is applied under Section 12.134, Health and Safety Code, the applicable percentage of the total distribution to be made to that political subdivision in the subsequent year shall be reduced as appropriate.

(e) This section expires December 31, 2002.

ARTICLE 3. EMERGENCY

SECTION 3.01. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an

imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Senate Amendment No. 1

Amend **CSHB 1161** as follows:

1. On page 1, lines 14-15, between "403.1042," and "403.1043" insert "and", and after "403.1043" delete ", and 403.1044".

2. On page 1, line 17, between "403.1042" and "403.1043", replace the comma with "and", and after "403.1043", delete ", and 403.1044".

3. On page 2, line 7, delete "Subject to Section 403.1044," and capitalize "On".

4. Starting on page 3, line 51, through page 4, line 26, delete the entire Sec. 403.1044.

HB 1504 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Kuempel called up with senate amendments for consideration at this time,

HB 1504, A bill to be entitled An Act relating to the establishment of a consortium of Alzheimer's disease centers.

On motion of Representative Kuempel, the house concurred in the senate amendments to **HB 1504** by (Record 496): 142 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farrar; Flores; Gallego; Garcia; Giddings; Glaze; Goodman; Goolsby(C); Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Solis, J.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker.

Absent, Excused — Corte; Crownover; Jones, D.; Smithee.

Absent — Farabee; George; Solis, J. F.

Senate Committee Substitute

CSHB 1504, A bill to be entitled An Act relating to the establishment of a consortium of Alzheimer's disease centers.

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

SECTION 1. Subtitle H, Title 3, Education Code, is amended by adding Chapter 151 to read as follows:

CHAPTER 151. CONSORTIUM OF ALZHEIMER'S DISEASE CENTERS

Sec. 151.001. DEFINITION. In this chapter, "council" means the Texas Council on Alzheimer's Disease and Related Disorders.

Sec. 151.002. CONSORTIUM; CLINICAL CENTERS. (a) The council shall establish a consortium of Alzheimer's disease centers, to be initially composed of the Alzheimer's disease centers at the Baylor College of Medicine, the Texas Tech University Health Sciences Center, the University of North Texas Health Science Center at Fort Worth, and The University of Texas Southwestern Medical Center at Dallas. The council may add additional consortium participants to the consortium as necessary.

(b) The council shall provide funds to the consortium participants to assist those participants to develop clinical centers that meet the standards of the consortium.

(c) A participant's clinical center may employ any personnel necessary to support its activities, including clinical, administrative, and data management personnel.

Sec. 151.003. PROGRAMS. (a) The consortium shall coordinate and direct its programs to provide to the extent practicable centralized, uniform services among the consortium participants.

(b) The consortium shall:

(1) offer clinical services to all patients of the consortium's clinical centers, notwithstanding the independent status of each participant;

(2) establish a database for:

(A) making data available to each consortium participant according to its specific activities;

(B) providing a resource index to facilitate research projects;

and

(C) providing data on patient health outcomes to appropriate state agencies and to researchers in this state; and

(3) with the aid of the council and the National Alzheimer's Association or its affiliate, develop and distribute to patients, caregivers, and health care professionals educational materials and services and inform patients of any research projects and therapeutic trials open for their participation.

Sec. 151.004. STEERING COMMITTEE. To advise the council on consortium activities, the council shall establish a steering committee composed of one representative from each consortium participant.

Sec. 151.005. DATA COORDINATING CENTER. (a) The council shall establish a data coordinating center to be located at the Texas Tech University Health Sciences Center. To the extent practicable, the center shall be operated in association with the data management operations of that institution's Alzheimer's disease center.

(b) The data coordinating center shall establish a database and make data available to each consortium participant according to the specific activities of the participant.

(c) The council shall appoint a physician or other person with a similar clinical background to administer the center.

(d) The person administering the center may employ any personnel necessary to support the center's activities, including a project coordinator. The person may require the project coordinator to hold a master's or doctoral degree related to public health.

(e) The project coordinator shall coordinate the center's activities among the center, the consortium participants, the council, and the public.

Sec. 151.006. FUNDING. (a) The council may receive state appropriated funds for the purpose of supporting the research activities of the consortium under this chapter.

(b) The council may solicit and accept gifts, grants, and donations for purposes of this chapter.

Sec. 151.007. ACCESS TO DATA. (a) The council may restrict access to the data maintained by the consortium or data coordinating center to consortium participants that contribute data as requested by the council.

(b) The steering committee periodically shall review and evaluate the availability and sharing of data under this section.

Sec. 151.008. PERFORMANCE REVIEW. The council, with recommendations from the steering committee, shall review and evaluate the performance of the consortium participants and data coordinating center at least every five years.

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.

HB 1851 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Thompson called up with senate amendments for consideration at this time,

HB 1851, A bill to be entitled An Act relating to guardianships for incapacitated persons.

On motion of Representative Thompson, the house concurred in the senate amendments to **HB 1851**.

Senate Committee Substitute

CSHB 1851, A bill to be entitled An Act relating to guardianships and other related matters concerning incapacitated persons.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
SECTION 1. Section 665(a), Texas Probate Code, is amended to read as follows:

(a) The court may authorize compensation for a guardian or a temporary

guardian serving as a guardian of the person alone from available funds of the ward's estate or other funds available for that purpose. The court shall set the compensation in an amount not exceeding five percent of the ward's gross income. In determining whether to authorize compensation for a guardian under this section, the court shall consider the ward's monthly income from all sources and whether the ward receives medical assistance under the state Medicaid program.

SECTION 2. Section 687(b), Texas Probate Code, is amended to read as follows:

(b) Except as provided by Subsection (c) of this section, if the court determines it is necessary, the court may appoint the necessary physicians to examine the proposed ward. Unless the court determines that an emergency examination is necessary, the court must make its determination with respect to the necessity for a physician's examination of the proposed ward at a hearing held for that purpose. Not later than the fourth day before the date of the hearing, the applicant shall give to the proposed ward and the proposed ward's attorney ad litem written notice specifying the purpose and the date and time of the hearing. A physician who examines the proposed ward, other than a physician or psychologist who examines the proposed ward under Subsection (c) of this section, shall make available to an attorney ad litem appointed to represent the proposed ward, for inspection, a written letter or certificate from the physician that complies with the requirements of Subsection (a) of this section.

SECTION 3. Section 745(c), Texas Probate Code, is amended to read as follows:

(c) When the estate of a minor ward consists only of cash or cash equivalents in an amount of \$50,000 [~~\$25,000~~] or less, the guardianship of the estate may be terminated and the assets paid to the county clerk of the county in which the guardianship proceeding is pending, and the clerk shall manage the funds as provided by Section 887 of this code.

SECTION 4. Subpart D, Part 4, Chapter XIII, Texas Probate Code, is amended by adding Sections 760A and 760B to read as follows:

Sec. 760A. CHANGE OF RESIDENT AGENT. (a) A guardian may change its resident agent to accept service of process in a guardianship proceeding or other matter relating to the guardianship by filing a statement of the change entitled "Designation of Successor Resident Agent" with the court in which the guardianship proceeding is pending. The statement must contain the names and addresses of the:

- (1) guardian;
- (2) resident agent; and
- (3) successor resident agent.

(b) The designation of a successor resident agent made in a statement filed under this section takes effect on the date on which the statement is filed with the court.

Sec. 760B. RESIGNATION OF RESIDENT AGENT. (a) A resident agent of a guardian may resign as the resident agent by giving notice to the guardian and filing with the court in which the guardianship proceeding is pending a statement entitled "Resignation of Resident Agent" that:

(1) contains the name of the guardian;
(2) contains the address of the guardian most recently known by the resident agent;

(3) states that notice of the resignation has been given to the guardian and that the guardian does not have a resident agent; and

(4) contains the date on which the notice of the resignation was given to the guardian.

(b) The resident agent shall send, by certified mail, return receipt requested, a copy of a resignation statement filed under Subsection (a) of this section to:

(1) the guardian at the address most recently known by the agent;
and

(2) each party in the case or the party's attorney or other designated representative of record.

(c) The resignation of a resident agent takes effect on the date on which the court enters an order accepting the agent's resignation. A court may not enter an order accepting the agent's resignation unless the agent complies with the requirements of this section.

SECTION 5. Section 761, Texas Probate Code, is amended to read as follows:

Sec. 761. REMOVAL. (a) The court, on its own motion or on motion of any interested person, including the ward, and without notice, may remove any guardian, appointed under this chapter, who:

(1) neglects to qualify in the manner and time required by law;

(2) fails to return within 90 days after qualification, unless the time is extended by order of the court, an inventory of the property of the guardianship estate and list of claims that have come to the guardian's knowledge;

(3) having been required to give a new bond, fails to do so within the time prescribed;

(4) absents himself from the state for a period of three months at one time without permission of the court, or removes from the state;

(5) cannot be served with notices or other processes because of the fact that:

(A) the guardian's whereabouts are unknown;

(B) [~~or because~~] the guardian is eluding service; or

(C) the guardian is a nonresident of this state who does not have a resident agent to accept service of process in any guardianship proceeding or other matter relating to the guardianship;

(6) has misapplied, embezzled, or removed from the state, or is about to misapply, embezzle, or remove from the state, all or any part of the property committed to the guardian's care; or

(7) has cruelly treated a ward, or has neglected to educate or maintain the ward as liberally as the means of the ward and the condition of the ward's estate permit.

(b) The court may remove a personal representative under Subsection (a)(6) or (7) of this section only on the presentation of clear and convincing evidence given under oath.

(c) The court may remove a guardian on its own motion, or on the complaint of an interested person, after the guardian has been cited by personal service to answer at a time and place set in the notice, when:

(1) sufficient grounds appear to support belief that the guardian has misapplied, embezzled, or removed from the state, or that the guardian is about to misapply, embezzle, or remove from the state, all or any part of the property committed to the care of the guardian;

(2) the guardian fails to return any account or report that is required by law to be made;

(3) the guardian fails to obey any proper order of the court having jurisdiction with respect to the performance of the guardian's duties;

(4) the guardian is proved to have been guilty of gross misconduct or mismanagement in the performance of the duties of the guardian;

(5) the guardian becomes incapacitated, or is sentenced to the penitentiary, or from any other cause becomes incapable of properly performing the duties of the guardian's trust;

(6) as guardian of the person, the guardian cruelly treats the ward, or neglects to educate or maintain the ward as liberally as the means of the ward's estate and the ward's ability or condition permit;

(7) the guardian interferes with the ward's progress or participation in programs in the community; ~~or~~

(8) the guardian fails to comply with the requirements of Section 697 of this code; or

(9) the court determines that there has been a dissolution of the joint guardians' marriage and the joint guardians were not named as joint managing conservators by a court with jurisdiction to decide child custody matters.

(d) The order of removal shall state the cause of the removal. It must require that any letters issued to the person who is removed shall, if the removed person has been personally served with citation, be surrendered and that all those letters be cancelled of record, whether or not delivered. It must further require, as to all the estate remaining in the hands of a removed person, delivery of the estate to the person or persons entitled to the estate, or to one who has been appointed and has qualified as successor guardian, and as to the person of a ward, that control be relinquished as required in the order.

(e) If a joint guardian is removed under Subsection (c)(9) of this section, the other joint guardian is entitled to continue to serve as the sole guardian unless removed for a reason other than the dissolution of the joint guardians' marriage.

(f) If the necessity exists, the court may immediately appoint a successor but may not discharge the person removed as guardian of the estate or release the person or the sureties on the person's bond until final order or judgment is rendered on the final account of the guardian.

(g) [(f)] The court at any time may order a person removed as guardian under this section who has all or part of the estate of a ward to deliver all or part of the ward's estate to a person who has been appointed and has qualified as successor guardian.

SECTION 6. Section 784, Texas Probate Code, is amended by adding Subsection (e) to read as follows:

(e) In the notice required by Subsection (b) of this section, the guardian of the estate may expressly state in the notice that the unsecured creditor must present a claim not later than the 120th day after the date on which the unsecured creditor receives the notice or the claim is barred, if the claim is not barred by the general statutes of limitation. The notice under this subsection must include:

- (1) the address to which claims may be presented; and
- (2) an instruction that the claim be filed with the clerk of the court issuing the letters of guardianship.

SECTION 7. Section 786(a), Texas Probate Code, is amended to read as follows:

(a) A claim may be presented to the guardian of the estate at any time when the estate is not closed and when suit on the claim has not been barred by the general statutes of limitation. If a claim of an unsecured creditor for money is not presented within the time prescribed by the notice permitted by Section 784(e) of this code, the claim is barred.

SECTION 8. Subpart M, Part 4, Chapter XIII, Texas Probate Code, is amended by adding Section 865A to read as follows:

Sec. 865A. INSPECTION OF CERTAIN INSTRUMENT FOR ESTATE PLANNING PURPOSES. (a) On the filing of an application under Section 865 of this code, the guardian of the ward's estate may apply to the court for an order to seek an in camera inspection of a true copy of a will, codicil, trust, or other estate planning instrument of the ward as a means of obtaining access to the instrument for purposes of establishing an estate plan under Section 865 of this code.

(b) An application filed under this section must:

- (1) be sworn to by the guardian;
- (2) list all of the instruments requested for inspection; and
- (3) state one or more reasons supporting the necessity to inspect each requested instrument for the purpose described by Subsection (a) of this section.

(c) A person who files an application under this section shall send a copy of the application to:

- (1) each person who has custody of an instrument listed in the application;
- (2) the ward's spouse;
- (3) the ward's dependents;
- (4) all devisees under a will, trust, or other beneficial instrument relating to the ward's estate; and
- (5) any other person as directed by the court.

(d) Notice required by Subsection (c) of this section must be delivered by certified mail to a person described by Subsection (c)(2), (3), (4), or (5) of this section and by registered or certified mail to a person described by Subsection (c)(1) of this section. After the 10th day after the date on which the applicant complies with the notice requirement, the applicant may request that a hearing be held on the application. Notice of the date, time, and place

of the hearing must be given by the applicant to each person described by Subsection (c)(1) of this section when the court sets a date for a hearing on the application.

(e) After the conclusion of a hearing on the application and on a finding that there is good cause for an in camera inspection of a requested instrument, the court shall direct the person that has custody of the requested will, codicil, trust, or other estate planning instrument to deliver a true copy of the instrument to the court for in camera inspection only. After conducting an in camera review of the instrument, the court, if good cause exists, shall release all or part of the instrument to the applicant only for the purpose described by Subsection (a) of this section.

(f) The court may appoint a guardian ad litem for the ward or an interested party at any stage of the proceedings if it is considered advisable for the protection of the ward or the interested party.

(g) An attorney does not violate the attorney-client privilege solely by complying with a court order to release an instrument subject to this section. Notwithstanding Section 22.004, Government Code, the supreme court may not amend or adopt rules in conflict with this subsection.

SECTION 9. Section 867, Texas Probate Code, is amended to read as follows:

Sec. 867. CREATION OF MANAGEMENT TRUST. On application by the guardian of a ward or by a ward's attorney ad litem or an incapacitated person's guardian ad litem at any time after the date of the ad litem's [~~attorney's~~] appointment under Section 646 or another provision of this code, the court in which the guardianship proceeding is pending may enter an order that creates for the ward's or incapacitated person's benefit a trust for the management of guardianship funds or funds of the incapacitated person's estate if the court finds that the creation of the trust is in the ward's or incapacitated person's best interests. The order shall direct the guardian or another person to deliver all or part of the assets of the guardianship or estate to a trust company or a state or national bank that has trust powers in this state. The order shall include terms, conditions, and limitations placed on the trust. The court shall maintain the trust under the same cause number as the guardianship proceeding.

SECTION 10. Section 885(a), Texas Probate Code, is amended to read as follows:

(a) When the estate or any portion of the estate of a minor or other incapacitated person [~~or any portion of the estate of the minor or other incapacitated person~~] appears in danger of injury, loss, or waste and in need of a [~~guardianship or other~~] representative, but [and] there is no guardian of the estate who is qualified in this state and the appointment of a guardian for the estate is not necessary to protect the estate [~~needed~~], the county judge of the county in which the minor or other incapacitated person resides or in which the endangered estate is located shall enter an order, with or without application, appointing a suitable person as receiver to take charge of the estate. The court order shall require a receiver appointed under this section to give bond as in ordinary receiverships in an amount the judge deems necessary to protect the estate. The court order shall specify the duties and

powers of the receiver as the judge deems necessary for the protection, conservation, and preservation of the estate. The clerk shall enter an order made under this section on the minutes of the court. The person who is appointed as receiver shall make and submit a bond for the judge's approval and shall file the bond, when approved, with the clerk. The person who is appointed receiver shall proceed to take charge of the endangered estate pursuant to the powers and duties vested in the person by the order of appointment and subsequent orders made by the judge.

SECTION 11. Part 5, Chapter XIII, Texas Probate Code, is amended by adding Subparts G and H to read as follows:

SUBPART G. INTERSTATE GUARDIANSHIPS

Sec. 891. TRANSFER OF GUARDIANSHIP TO FOREIGN JURISDICTION.

(a) A guardian of the person or estate of a ward may apply with the court that has jurisdiction over the guardianship to transfer the guardianship to a court in a foreign jurisdiction if the ward has moved permanently to the foreign jurisdiction.

(b) Notice of the application to transfer a guardianship under this section shall be served personally on the ward and shall be given to the foreign court to which the guardianship is to be transferred.

(c) On the court's own motion or on the motion of the ward or any interested person, the court shall hold a hearing to consider the application to transfer the guardianship.

(d) The court shall transfer a guardianship to a foreign court if the court determines the transfer is in the best interests of the ward. The transfer of the guardianship must be made contingent on the acceptance of the guardianship in the foreign jurisdiction. To facilitate the orderly transfer of the guardianship, the court shall coordinate efforts with the appropriate foreign court.

Sec. 892. RECEIPT AND ACCEPTANCE OF FOREIGN GUARDIANSHIP.

(a) A guardian appointed by a foreign court to represent an incapacitated person who is residing in this state or intends to move to this state may file an application with a court in which the ward resides or intends to reside to have the guardianship transferred to the court.

(b) Notice of the application for receipt and acceptance of a foreign guardianship under this section shall be served personally on the ward and shall be given to the foreign court from which the guardianship is to be transferred.

(c) If an application for receipt and acceptance of a foreign guardianship is filed in two or more courts with jurisdiction, the proceeding shall be heard in the court with jurisdiction over the application filed on the earliest date if venue is otherwise proper in that court. A court that does not have venue to hear the application shall transfer the proceeding to the proper court.

(d) In reviewing an application for receipt and acceptance of a foreign guardianship, the court should determine:

(1) that the proposed guardianship is not a collateral attack on an existing or proposed guardianship in another jurisdiction in this or another state; and

(2) for a guardianship in which a court in one or more states may

have jurisdiction, that the application has been filed in the court that is best suited to consider the matter.

(e) On the court's own motion or on the motion of the ward or any interested person, the court shall hold a hearing to consider the application for receipt and acceptance of a foreign guardianship.

(f) The court shall grant an application for receipt and acceptance of a foreign guardianship if the transfer of the guardianship from the foreign jurisdiction is in the best interests of the ward. In granting an application under this subsection, the court shall give full faith and credit to the provisions of the foreign guardianship order concerning the determination of the ward's incapacity and the rights, powers, and duties of the guardian.

(g) The court shall coordinate efforts with the appropriate foreign court to facilitate the orderly transfer of the guardianship.

(h) The denial of an application for receipt and acceptance of a guardianship under this section does not affect the right of a guardian appointed by a foreign court to file an application to be appointed guardian of the incapacitated person under Section 682 of this code.

Sec. 893. REVIEW OF TRANSFERRED GUARDIANSHIP. Not later than the 90th day after the date a court grants an application for receipt and acceptance of a foreign guardianship under Section 892 of this code, the court shall hold a hearing to consider modifying the administrative procedures or requirements of the transferred guardianship in accordance with local and state law.

SUBPART H. CONTRACTS IN ARTS, ENTERTAINMENT, ADVERTISEMENT, AND SPORTS

Sec. 901. DEFINITIONS. In this subpart:

(1) "Advertise" means to solicit or induce, through print or electronic media, including radio, television, computer, or direct mail, to purchase consumer goods or services.

(2) "Advertisement contract" means a contract under which a person is employed or agrees to advertise consumer goods or services.

(3) "Artist" means:

(A) an actor who performs in a motion picture, theatrical, radio, television, or other entertainment production;

(B) a musician or musical director;

(C) a director or producer of a motion picture, theatrical, radio, television, or other entertainment production;

(D) a writer;

(E) a cinematographer;

(F) a composer, lyricist, or arranger of musical compositions;

(G) a dancer or choreographer of musical productions;

(H) a model; or

(I) any other individual who renders analogous professional services in a motion picture, theatrical, radio, television, or other entertainment production.

(4) "Arts and entertainment contract" means a contract under which:

(A) an artist is employed or agrees to render services in a

motion picture, theatrical, radio, television, or other entertainment production;
or

(B) a person agrees to purchase, secure, sell, lease, license, or otherwise dispose of literary, musical, or dramatic tangible or intangible property or any rights in that property for use in the field of entertainment, including a motion picture, television, the production of phonograph records, or theater.

(5) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes.

(6) "Sports contract" means a contract under which an athlete is employed or agrees to participate, compete, or engage in a sports or athletic activity at a professional or amateur sports event or athletic event.

Sec. 902. APPROVAL OF CERTAIN CONTRACTS OF MINORS; NOT VOIDABLE. (a) A court, on petition of a party to the contract, may enter an order approving for purposes of this subpart an arts and entertainment contract, advertisement contract, or sports contract that is entered into by a minor. The court may approve the contract only after the party requesting the petition provides to the other party to the contract notice of the petition and an opportunity to request a hearing in the manner provided by the court.

(b) A proceeding under this section may be brought in the county in which:

(1) the minor resides;

(2) the minor is employed; or

(3) a party to the contract has its principal office in this state for the transaction of business if the minor does not reside and is not employed in this state.

(c) The approval of a contract under this section extends to the contract as a whole and any of the terms and provisions of the contract, including any optional or conditional provision in the contract relating to the extension or termination of its term.

(d) A court may withhold approval of a contract under which part of the minor's net earnings under the contract will be set aside as provided by Section 903 of this code until the guardian of the minor executes and files with the court written consent to the making of the order.

(e) An otherwise valid contract approved under this section may not be voidable solely on the ground that it was entered into by a person during the age of minority.

Sec. 903. NET EARNINGS OF MINOR; SET ASIDE AND PRESERVATION. (a) In this section, "net earnings" means the total amount to be received for the services of the minor under the contract less:

(1) the sum required by law to be paid as taxes to any government or governmental agency;

(2) a reasonable sum to be expended for the support, care, maintenance, education, and training of the minor;

(3) fees and expenses paid in connection with procuring the contract or maintaining employment of the minor; and

(4) attorney's fees for services rendered in connection with the contract or any other business of the minor.

(b) Notwithstanding any other law, the court may require in an order approving a contract under Section 902 of this code that a portion of the net earnings of the minor under the contract, not to exceed one-half of the minor's net earnings, be set aside and preserved for the benefit of the minor in a trust created under Section 867 of this code or a similar trust created under the laws of another state. The amount to be set aside under this subsection must be a reasonable amount as determined by the court.

Sec. 904. GUARDIAN AD LITEM. The court may appoint a guardian ad litem for a minor who has entered into an arts and entertainment contract, advertisement contract, or sports contract if the court finds that appointment of the ad litem would be in the best interest of the minor.

SECTION 12. The change in law made by this Act to Section 745(c), Texas Probate Code, applies only to an application to close a guardianship filed on or after the effective date of this Act. An application to close a guardianship filed before the effective date of this Act is governed by the law in effect on the date on which the application was filed, and the former law is continued in effect for that purpose.

SECTION 13. Sections 760A and 760B, Texas Probate Code, as added by this Act, apply only to a change in designation of or a resignation of a resident agent made on or after the effective date of this Act. A change in designation of or the resignation of a resident agent made before the effective date of this Act is governed by the law in effect when the change in designation of or the resignation of the resident agent occurred, and the former law is continued in effect for that purpose.

SECTION 14. The changes in law made by this Act to Sections 687(b) and 786(a), Texas Probate Code, and by Section 784(e), Texas Probate Code, as added by this Act, apply only to an application for the appointment of a guardian that is filed on or after the effective date of this Act. An application for the appointment of a guardian that is filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and that law is continued in effect for that purpose.

SECTION 15. (a) The change in law made by this Act to Section 761, Texas Probate Code, applies only to a motion or complaint for the removal of a joint guardian made or filed after the effective date of this Act.

(b) A motion or complaint for the removal of a joint guardian made or filed before the effective date of this Act is covered by the law in effect when the motion or complaint was made or filed, and the former law is continued in effect for that purpose.

SECTION 16. This Act takes effect September 1, 1999.

SECTION 17. 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.

Senate Amendment No. 1

Amend **CSHB 1851** as follows:

(1) Strike SECTION 9 of the bill (senate committee report, page 4, line 54, through page 5, line 2) and substitute the following:

SECTION 9. Section 867, Texas Probate Code, is amended to read as follows:

Sec. 867. CREATION OF MANAGEMENT TRUST. (a) On application by the guardian of a ward or by a ward's attorney ad litem or an incapacitated person's guardian ad litem at any time after the date of the ad litem's [attorney's] appointment under Section 646 or another provision of this code, the court in which the guardianship proceeding is pending may enter an order that creates for the ward's or incapacitated person's benefit a trust for the management of guardianship funds or funds of the incapacitated person's estate if the court finds that the creation of the trust is in the ward's or incapacitated person's best interests. Except as provided by Subsection (b) of this section, the court shall appoint a trust company or a state or national bank that has trust powers in this state to serve as trustee of the trust.

(b) The court may appoint a person other than a trust company or bank described by Subsection (a) of this section to serve as trustee of the trust only if:

(1) no trust company or bank described by Subsection (a) of this section is willing to serve as trustee;

(2) the value of the trust's principal is \$50,000 or less; and

(3) the court determines the appointment to be in the ward's best interests.

(c) The order shall direct the guardian or another person to deliver all or part of the assets of the guardianship to a person or corporate fiduciary appointed by the court as trustee of the trust [~~company or a state or national bank that has trust powers in this state~~]. The order shall include terms, conditions, and limitations placed on the trust. The court shall maintain the trust under the same cause number as the guardianship proceeding.

(2) Add the following appropriately numbered sections and renumber the existing sections of the bill accordingly:

SECTION _____. Section 868(a), Texas Probate Code, is amended to read as follows:

(a) Except as provided by Subsection (d) of this section, a trust created under Section 867 of this code must provide that:

(1) the ward is the sole beneficiary of the trust;

(2) the trustee may disburse an amount of the trust's principal or income as the trustee determines is necessary to expend for the health, education, support, or maintenance of the ward;

(3) the income of the trust that the trustee does not disburse under Subdivision (2) of this subsection must be added to the principal of the trust;

(4) if the trustee is a corporate fiduciary, the trustee serves without giving a bond; and

(5) the trustee, on annual application to the court and subject to the court's approval, is entitled to receive reasonable compensation for services that the trustee provided to the ward as the ward's trustee that is:

(A) to be paid from the trust's income, principal, or both; and

(B) determined in the same manner as compensation of a guardian of an estate under Section 665 of this code.

SECTION _____. Subpart N, Part 4, Chapter XIII, Texas Probate Code, is amended by adding Section 868B to read as follows:

Sec. 868B. BOND REQUIREMENT FOR CERTAIN TRUSTEES. The court shall require a person, other than a corporate fiduciary, serving as trustee to file with the county clerk a bond in an amount equal to the value of the trust's principal and projected annual income and with the conditions the court determines are necessary.

SECTION _____. Section 869A, Texas Probate Code, is amended to read as follows:

Sec. 869A. SUCCESSION TRUSTEE. The court may appoint a [~~corporate fiduciary as~~] successor trustee if the trustee resigns, becomes ineligible, or is removed.

SECTION _____. The changes in law made by this Act to Sections 867, 868(a), and 869A, Texas Probate Code, and Section 868B, Texas Probate Code, as added by this Act, apply only to an application for the creation of a trust filed on or after that date. An application for the creation of a trust filed before the effective date of this Act is governed by the law in effect when the application was filed, and the former law is continued in effect for that purpose.

Senate Amendment No. 2

Amend **CSHB 1851** in SECTION 5 of the bill, in amended Section 761(c), Texas Probate Code (Senate committee report, page 3, lines 22-25), by striking Subdivision (9) and substituting the following:

(9) the court determines that there has been a dissolution of the joint guardians' marriage and only one of the joint guardians was named as managing conservator by a court with jurisdiction to decide child custody matters.

HB 1852 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Thompson called up with senate amendments for consideration at this time,

HB 1852, A bill to be entitled An Act relating to the administration of and other matters relating to decedents' estates.

On motion of Representative Thompson, the house concurred in the senate amendments to **HB 1852**.

Senate Amendment No. 1

Amend **HB 1852** by Thompson, in Section 9 of the bill (Senate Committee Printing), as follows:

- (1) On page 4, line 50, delete "or".
- (2) On page 4, line 53, after "met" insert ", or".
- (3) On page 4, after line 53, insert "(7) a reverse mortgage."

Senate Amendment No. 2

Amend **HB 1852**, by Thompson, Senate Committee Printing, to delete all Section 10 of the bill, Sec. 378 B (a), Texas Probate Code, and renumber accordingly.

**HB 1878 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Averitt called up with senate amendments for consideration at this time,

HB 1878, A bill to be entitled An Act relating to the regulation of pawnbrokers and pawnshop employees.

On motion of Representative Averitt, the house concurred in the senate amendments to **HB 1878**.

Senate Committee Substitute

CSHB 1878, A bill to be entitled An Act relating to the regulation of pawnbrokers and pawnshop employees.

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

SECTION 1. Section 371.059, Finance Code, is amended to read as follows:

Sec. 371.059. APPROVAL; ISSUANCE OF LICENSE. (a) Subject to Subsection (b), the [The] commissioner shall approve the application and issue a license if the commissioner finds that[:

[(+)] the applicant is eligible for the license.

(b) In a county with a population of 250,000 or more, the commissioner shall approve[; and

[(2) for] an application for:

(1) an original license to operate a pawnshop at a facility that is not an existing licensed pawnshop at the time the application is filed if the proposed facility is not located within two miles of a licensed pawnshop;

(2) the relocation of a licensed pawnshop to a facility that is not an existing licensed pawnshop at the time the application is filed if the facility where the pawnshop is to be relocated is not located within one mile of a licensed pawnshop; and

(3) the relocation of a licensed pawnshop if at the time the application is filed the pawnshop has been in operation at its current location for at least three years, and the facility where the pawnshop is to be relocated is either within one mile of its existing location or, if in excess of one mile from its existing location, not within one mile of another existing operating pawnshop.

(c) Notwithstanding Subsection (b)(3), the commissioner may approve an application for the relocation of a licensed pawnshop that needs to relocate marginally further than one mile from its existing location or that at the time the application is made has not been in operation in its current location for at least three years if the necessity for relocation was caused by circumstances beyond the applicant's control.

(d) A determination of distance for purposes of this section is based on a measurement taken from the front door of a facility to the front door of the other facility. For a facility not in existence at the time the application is filed, the location of the front door of the proposed facility must be indicated on architectural drawings or comparable professionally prepared drawings depicting the facility and the entire boundary of the lot or parcel of land to

~~which the facility is to be attached [in or the relocation of a pawnshop to a county with a population of at least 250,000:~~

~~[(A) there is a public need for the proposed pawnshop; and~~

~~[(B) the volume of business in the community in which the pawnshop will conduct its business indicates a profitable operation is probable].~~

SECTION 2. Section 371.064(a), Finance Code, is amended to read as follows:

(a) Not later than December 1, a pawnbroker shall pay to the commissioner for each license held an annual fee of \$125 ~~[\$100]~~ for the year beginning the next January 1.

SECTION 3. Section 371.071, Finance Code, is amended to read as follows:

Sec. 371.071. APPLICATION FOR [NOTICE OF] RELOCATION. ~~[(a)]~~ A pawnbroker who wishes to move a pawnshop from the location provided on the license must make application to the commissioner~~[-~~

~~[(1) give notice to the commissioner] before the 30th day preceding the date the pawnbroker moves [if the new location is not subject to Section 371.059(2); or~~

~~[(2) make application to the commissioner before the 60th day preceding the date the pawnbroker moves if the new location is subject to Section 371.059(2).~~

~~[(b) When the commissioner receives a notice under Subsection (a)(1), the commissioner shall amend the license accordingly].~~

SECTION 4. Section 371.072, Finance Code, is amended to read as follows:

Sec. 371.072. NET ASSETS REQUIREMENT. (a) Except as provided by Subsection (b) ~~[this section]~~, a pawnbroker shall maintain net assets of at least \$150,000 that are used or readily available for use in the business of each pawnshop.

(b) A pawnbroker who held a license under this chapter before September 1, 1999, shall maintain net assets that are used or readily available for use in the business for that existing license of at least the amount required on August 31, 1999. The net assets requirement of this subsection remains in effect without regard to a change in ownership or relocation of the license ~~[If a change in ownership or a relocation from a municipality occurs, the net assets requirement for a pawnbroker is an amount equal to the sum, rounded to the next higher multiple of \$5,000, of:~~

~~[(1) the pawnbroker's outstanding loans on the date of the change of ownership or relocation;~~

~~[(2) the value of the pawnbroker's inventory on that date; and~~

~~[(3) an amount equal to five percent of the sum of the amounts described by Subdivisions (1) and (2).~~

~~[(c) The net assets requirement of Subsection (b) may not be:~~

~~[(1) less than the amount of net assets required immediately before the date of the change of ownership or relocation; or~~

~~[(2) more than \$150,000.~~

~~[(d) Subject to Subsection (b), a pawnbroker shall maintain for each~~

~~pawnshop net assets that are used or readily available for use in the business of the pawnshop of at least the amount required on:~~

~~(1) August 31, 1981, if the pawnbroker held a license on that date;~~
or

~~(2) June 20, 1987, if the pawnbroker held a license on that date but did not hold a license on August 31, 1981].~~

~~(c) [(e)]~~ Net assets must be represented by a capital investment unencumbered by a lien or other encumbrance and subject to a claim by a general creditor.

~~(d) [(f)]~~ In this section, "capital investment" means:

(1) common or preferred shares and capital or earned surplus as those terms are defined by the Texas Business Corporation Act if the pawnbroker is a corporation; or

(2) a substantial equivalent of items described by Subdivision (1), as determined by generally accepted accounting principles, if the pawnbroker is not a corporation.

~~(e) Subsection (b) applies [(g) This section does not apply]~~ to a change in ownership that is:

(1) a transaction involving a different owner who had a significant family or business relationship with a prior owner before the transaction;

(2) a transaction in which:

(A) only the number or proportionate ownership of owners of a business changes; and

(B) an individual who was not an owner before the transaction is not an owner after the transaction; or

(3) a change in ownership that occurs by testate or intestate disposition.

SECTION 5. Section 371.101(a), Finance Code, is amended to read as follows:

(a) An individual who begins employment at a pawnshop must apply to the commissioner for a pawnshop employee license not later than the 75th ~~30th~~ day after the date employment begins.

SECTION 6. Section 371.106(a), Finance Code, is amended to read as follows:

(a) Not later than December 1, a pawnshop employee license holder shall pay to the commissioner an annual fee of \$15 ~~[\$10]~~ for the year beginning the next January 1.

SECTION 7. Section 371.167(a), Finance Code, is amended to read as follows:

(a) A pawnbroker shall replace pledged goods that are lost or damaged while in the pawnbroker's possession with like kind merchandise. The replacement is subject to approval by the commissioner and the pledgor must exhaust this administrative remedy with respect to the lost or damaged pledged goods before seeking a remedy in court. If the commissioner does not approve a replacement before the 91st day after the date on which the commissioner receives a complaint from the pledgor concerning the lost or damaged goods, or if the pledgor does not accept the commissioner's determination, the pledgor may seek a remedy in court.

SECTION 8. Section 371.258, Finance Code, is amended by adding Subsection (c) to read as follows:

(c) The commissioner shall reinstate an expired pawnbroker license if, not later than the 180th day after the date on which the license expired, the pawnbroker pays the commissioner the delinquent \$125 annual fee plus a reinstatement fee of \$1,000. After a pawnbroker's license has expired, the commissioner shall promptly send notice of reinstatement rights to the delinquent pawnbroker by certified mail.

SECTION 9. (a) This Act takes effect September 1, 1999. The changes in law made by this Act to Sections 371.059 and 371.071, Finance Code, apply only to applications filed on or after the effective date of this Act.

(b) An application filed before the effective date of this Act is covered by the law in effect when the application was submitted, and the former law is continued in effect for that purpose.

(c) The net assets requirement under Section 371.072, Finance Code, as amended by this Act, for an existing license on the effective date of this Act remains in effect as the net assets requirement that existed immediately before the effective date of this Act.

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.

**HB 1939 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Grusendorf called up with senate amendments for consideration at this time,

HB 1939, A bill to be entitled An Act relating to requirements and procedures concerning driver's licenses or personal identification certificates for persons subject to sex offender registration.

Representative Grusendorf moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1939**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1939**: Grusendorf, chair, Goodman, Hinojosa, Smith, and Nixon.

**HB 1997 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Palmer called up with senate amendments for consideration at this time,

HB 1997, A bill to be entitled An Act relating to installation, repair, or removal of certain vent hoods.

Representative Palmer moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1997**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1997**: Palmer, chair, Wilson, Haggerty, Yarbrough, and A. Reyna.

**HB 2022 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Garcia called up with senate amendments for consideration at this time,

HB 2022, A bill to be entitled An Act relating to the appointment of a small business advocate to head the Office of Small Business Assistance.

On motion of Representative Garcia, the house concurred in the senate amendments to **HB 2022**.

Senate Amendment No. 1

Amend **HB 2022** as follows:

- (1) On page 1, line 15, strike "appointed" and insert "designated".
- (2) On page 1, line 18, delete "The small business advocate serves at the will of the governor."

**HB 2031 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Kuempel called up with senate amendments for consideration at this time,

HB 2031, A bill to be entitled An Act relating to the process of notifying drivers of license suspension by mail.

Representative Kuempel moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2031**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2031**: Kuempel, chair, B. Turner, Berman, Najera, and Driver.

**HB 2075 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Hochberg called up with senate amendments for consideration at this time,

HB 2075, A bill to be entitled An Act relating to the public notice required to be provided by a school district before adopting a proposed budget and tax rate.

On motion of Representative Hochberg, the house concurred in the senate amendments to **HB 2075** by (Record 497): 137 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Chavez; Chisum; Christian; Clark; Cook; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farrar; Flores; Gallego; Garcia; Giddings; Glaze; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kruse; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Corte; Crownover; Jones, D.; Smithee.

Absent — Carter; Coleman; Farabee; George; Goodman; Moreno, P.; Van de Putte.

Senate Amendment No. 1

Amend **HB 2075** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 44.004, Education Code, is amended to read as follows:

Sec. 44.004. NOTICE OF BUDGET AND TAX RATE MEETING; BUDGET ADOPTION. (a) When the budget has been prepared under Section 44.002, the president shall call a meeting of the board of trustees ~~for~~ ~~stating that~~ the purpose of adopting ~~[the meeting is the adoption of]~~ a budget for the succeeding fiscal year.

(b) The president shall provide for the publication of notice of the budget and proposed tax rate meeting in a daily, weekly, or biweekly newspaper published in the district. If no daily, weekly, or biweekly newspaper is published in the district, the president shall provide for the publication of notice in at least one newspaper of general circulation in the county in which the district's central administrative office is located. ~~[Notice published under this subsection is in addition to notice required by other law.]~~ Notice under this subsection shall be published not earlier than the 30th day or later than the 10th day before the date of the hearing. ~~[A district may include the notice required under this subsection in a notice required under Section 26.06, Tax Code.]~~

(c) The notice of public meeting to discuss and adopt the budget and the proposed tax rate may not be smaller than one-quarter page of a standard-size or a tabloid-size newspaper, and the headline on the notice must be in 18-point or larger type. Subject to Subsection (d), the notice must:

(1) contain a statement in the following form:

"NOTICE OF PUBLIC MEETING TO DISCUSS BUDGET
AND PROPOSED TAX RATE

"The (name of school district) will hold a public meeting at (time, date, year) in (name of room, building, physical location, city, state). The purpose of this meeting is to discuss the school district's budget that will determine the tax rate that will be adopted. Public participation in the discussion is invited." The statement of the purpose of the meeting must be in bold type. In reduced type, the notice must state: "The tax rate that is ultimately adopted at this meeting or at a separate meeting at a later date may not exceed the proposed rate shown below unless the district publishes a revised notice containing the same information and comparisons set out below and holds another public meeting to discuss the revised notice.";

(2) contain a section entitled "Comparison of Proposed Rates with Last Year's Rates," which must:

(A) show in rows the tax rates described by Subparagraphs (i)-(iii), expressed as amounts per \$100 valuation of property, for columns entitled "Maintenance & Operations," "Interest & Sinking Fund," and "Total," which is the sum of "Maintenance & Operations" and "Interest & Sinking Fund":

(i) the school district's "Last Year's Rate";

(ii) the "Rate to Maintain Same Level of Maintenance & Operations Revenue & Pay Debt Service," which:

(a) in the case of "Maintenance & Operations," is the tax rate that, when applied to the current taxable value for the district, as certified by the chief appraiser under Section 26.01, Tax Code, and as adjusted to reflect changes made by the chief appraiser as of the time the notice is prepared, would impose taxes in an amount that, when added to state funds to be distributed to the district under Chapter 42, would provide the same amount of maintenance and operations taxes and state funds distributed under Chapter 42 per student in average daily attendance for the applicable school year that was available to the district in the preceding school year; and

(b) in the case of "Interest & Sinking Fund," is the tax rate that, when applied to the current taxable value for the district, as certified by the chief appraiser under Section 26.01, Tax Code, and as adjusted to reflect changes made by the chief appraiser as of the time the notice is prepared, and when multiplied by the district's anticipated collection rate, would impose taxes in an amount that, when added to state funds to be distributed to the district under Chapter 46 and any excess taxes collected to service the district's debt during the preceding year but not used for that purpose during that year, would provide the amount required to service the district's debt; and

(iii) the "Proposed Rate";

(B) contain fourth and fifth columns aligned with the columns required by Paragraph (A) that show, for each row required by Paragraph (A):

(i) the "Local Revenue per Student," which is computed by multiplying the district's total taxable value of property, as certified by the chief appraiser for the applicable school year under Section 26.01, Tax Code, and as adjusted to reflect changes made by the chief appraiser as of the time the notice is prepared, by the total tax rate, and dividing the product by the number of students in average daily attendance in the district for the applicable school year; and

(ii) the "State Revenue per Student," which is computed by determining the amount of state aid received or to be received by the district under Chapters 42, 43, and 46 and dividing that amount by the number of students in average daily attendance in the district for the applicable school year; and

(C) contain an asterisk after each calculation for "Interest & Sinking Fund" and a footnote to the section that, in reduced type, states "The Interest & Sinking Fund tax revenue is used to pay for bonded indebtedness on construction, equipment, or both. The bonds, and the tax rate necessary to pay those bonds, were approved by the voters of this district.";

(3) contain a section entitled "Comparison of Proposed Levy with Last Year's Levy on Average Residence," which must:

(A) show in rows the information described by Subparagraphs (i)-(iv), rounded to the nearest dollar, for columns entitled "Last Year" and "This Year":

(i) "Average Market Value of Residences," determined using the same group of residences for each year;

(ii) "Average Taxable Value of Residences," determined after taking into account the limitation on the appraised value of residences under Section 23.23, Tax Code, and after subtracting all homestead exemptions applicable in each year, other than exemptions available only to disabled persons or persons 65 years of age or older or their surviving spouses, and using the same group of residences for each year;

(iii) "Last Year's Rate Versus Proposed Rate per \$100 Value"; and

(iv) "Taxes Due on Average Residence," determined using the same group of residences for each year; and

(B) contain the following information: "Increase (Decrease) in Taxes" expressed in dollars and cents, which is computed by subtracting the "Taxes Due on Average Residence" for the preceding tax year from the "Taxes Due on Average Residence" for the current tax year;

(4) contain the following statement in bold print: "Under state law, the dollar amount of school taxes imposed on the residence of a person 65 years of age or older or of the surviving spouse of such a person, if the surviving spouse was 55 years of age or older when the person died, may not be increased above the amount paid in the first year after the person turned 65, regardless of changes in tax rate or property value.";

(5) contain the following statement in bold print: "Notice of

Rollback Rate: The highest tax rate the district can adopt before requiring voter approval at an election is (the school district rollback rate determined under Section 26.08, Tax Code). This election will be automatically held if the district adopts a rate in excess of the rollback rate of (the school district rollback rate)."; and

(6) contain a section entitled "Fund Balances," which must include the estimated amount of interest and sinking fund balances and the estimated amount of maintenance and operation or general fund balances remaining at the end of the current fiscal year that are not encumbered with or by corresponding debt obligation, less estimated funds necessary for the operation of the district before the receipt of the first payment under Chapter 42 in the succeeding school year.

(c-1) For purposes of the notice prescribed by Subsection (c) for 1999, in the section of the notice prescribed by Subsection (c)(2), immediately under the row showing the required information for "Last Year's Rate," there shall be included:

(1) a row entitled "Less State-Funded Tax Relief" showing for each column the amount, expressed as a tax rate, by which the applicable tax rate in the row entitled "Last Year's Rate" is reduced for the 1999 tax year because of the changes in law made by SB 4, Acts of the 76th Legislature, Regular Session, 1999, as determined by the commissioner; and

(2) a row entitled "Last Year's Rate Adjusted for Tax Relief" showing for each column the tax rate determined by subtracting the applicable tax rate in the row entitled "Less State-Funded Tax Relief" from the applicable tax rate in the row entitled "Last Year's Rate."

(c-2) For purposes of the notice prescribed by Subsection (c) for 1999, the calculations in the row for the "Rate to Maintain Same Level of Maintenance & Operations Revenue & Pay Debt Service" shall be made without consideration of state revenue received by the district in the 1999-2000 school year for the pay raise for classroom teachers, full-time librarians, full-time counselors, and full-time school nurses enacted by the 76th Legislature. After the title "Rate to Maintain Same Level of Maintenance & Operations Revenue & Pay Debt Service" there shall be included a distinctive asterisk and a related footnote to the section that, in reduced type, states "The Rate to Maintain the Same Level of Maintenance & Operations Revenue & Pay Debt Service does not reflect state revenue received by the district in the 1999-2000 school year for the pay raise for classroom teachers, full-time librarians, full-time counselors, and full-time school nurses enacted by the 76th Legislature."

(c-3) The commissioner shall adopt emergency rules as soon as practicable after the effective date of this section prescribing the manner in which a school district determines the information required by Subsection (c-1) to be included in the notice prescribed by Subsection (c).

(c-4) The commissioner shall adopt emergency rules as soon as practicable after the effective date of this section prescribing the manner in which a school district makes the calculations for the row entitled "Rate to Maintain Same Level of Maintenance & Operations Revenue & Pay Debt Service" in accordance with Subsection (c-2). The commissioner shall adopt

emergency rules as soon as practicable after the effective date of this section modifying the statement to be included in the footnote prescribed by Subsection (c-2) to include the annual dollar amount of the pay raise described by that statement and to make any other changes to reflect the action taken by the 76th Legislature with respect to that pay raise.

(c-5) This subsection and Subsections (c-1), (c-2), (c-3), and (c-4) expire May 1, 2000.

(d) The comptroller shall prescribe the language and format to be used in the part of the notice required by Subsection (c). A notice under Subsection (c) is not valid if it does not substantially conform to the language and format prescribed by the comptroller under this subsection.

(e) A person who owns taxable property in a school district is entitled to an injunction restraining the collection of taxes by the district if the district has not complied with the requirements of Subsections (b), (c), and (d), and the failure to comply was not in good faith. An action to enjoin the collection of taxes must be filed before the date the school district delivers substantially all of its tax bills.

(f) The board of trustees, at the meeting called for that purpose, shall adopt a budget to cover all expenditures for the school district for the next succeeding fiscal year. Any taxpayer of the district may be present and participate in the meeting [hearing].

(g) [(d)] The budget must be adopted before the adoption of the tax rate for the tax year in which the fiscal year covered by the budget begins.

SECTION 2. Section 26.04, Tax Code, is amended by amending Subsection (e) and adding Subsection (e-1) to read as follows:

(e) By August 7 or as soon thereafter as practicable, the designated officer or employee shall submit the rates to the governing body. He shall deliver by mail to each property owner in the unit or publish in a newspaper in the form prescribed by the comptroller:

(1) the effective tax rate, the rollback tax rate, and an explanation of how they were calculated;

(2) the estimated amount of interest and sinking fund balances and the estimated amount of maintenance and operation or general fund balances remaining at the end of the current fiscal year that are not encumbered with or by corresponding existing debt obligation[~~—except that for a school district, estimated funds necessary for the operation of the district prior to the receipt of the first state education aid payment in the succeeding school year shall be subtracted from the estimated fund balances~~];

(3) a schedule of the unit's debt obligations showing:

(A) the amount of principal and interest that will be paid to service the unit's debts in the next year from property tax revenue, including payments of lawfully incurred contractual obligations providing security for the payment of the principal of and interest on bonds and other evidences of indebtedness issued on behalf of the unit by another political subdivision and, if the unit is created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, payments on debts that the unit anticipates to incur in the next calendar year;

(B) the amount by which taxes imposed for debt are to be increased because of the unit's anticipated collection rate; and

(C) the total of the amounts listed in Paragraphs (A)-(B), less any amount collected in excess of the previous year's anticipated collections certified as provided in Subsection (b); ~~and~~

(4) the amount of additional sales and use tax revenue anticipated in calculations under Section 26.041;[-]

(5) in the year that a taxing unit calculates an adjustment under Subsection (i) or (j), the unit shall publish a schedule that includes the following elements:

(A) the name of the unit discontinuing the department, function, or activity;

(B) the amount of property tax revenue spent by the unit listed under Paragraph (A) to operate the discontinued department, function, or activity in the 12 months preceding the month in which the calculations required by this chapter are made; and

(C) the name of the unit that operates a distinct department, function, or activity in all or a majority of the territory of a taxing unit that has discontinued operating the distinct department, function, or activity; and

(6) in the year following the year in which a taxing unit raised its rollback rate as required by Subsection (j), the taxing unit shall publish a schedule that includes the following elements:

(A) the amount of property tax revenue spent by the unit to operate the department, function, or activity for which the taxing unit raised the rollback rate as required by Subsection (j) for the 12 months preceding the month in which the calculations required by this chapter are made; and

(B) the amount published by the unit in the preceding tax year under Subdivision (5)(B).

(e-1) The notice requirements imposed by Subsections (e)(1)-(6) do not apply to a school district.

SECTION 3. Section 26.05(d), Tax Code, is amended to read as follows:

(d) The governing body of a taxing unit other than a school district may not adopt a tax rate that if applied to the total taxable value would impose an amount of taxes that exceeds last year's levy until it has held a public hearing on the proposed tax rate and has otherwise complied with Section 26.06.

SECTION 4. Section 26.06, Tax Code, is amended by adding Subsection (g) to read as follows:

(g) This section does not apply to a school district. A school district shall provide notice of a public hearing on a tax increase as required by Section 44.004, Education Code.

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.

HB 2148 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Maxey called up with senate amendments for consideration at this time,

HB 2148, A bill to be entitled An Act relating to certain federally funded long-term care Medicaid programs.

On motion of Representative Maxey, the house concurred in the senate amendments to **HB 2148**.

Senate Amendment No. 1

Amend **HB 2148**, by adding an appropriately numbered SECTION to read as follows:

"SECTION 6. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

HB 2190 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hinojosa called up with senate amendments for consideration at this time,

HB 2190, A bill to be entitled An Act relating to prima facie evidence of the offense of theft by check and to certain actions based on nonpayment of a check.

On motion of Representative Hinojosa, the house concurred in the senate amendments to **HB 2190**.

Senate Committee Substitute

CSHB 2190, A bill to be entitled An Act relating to prima facie evidence for the offense of theft of livestock by check.

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

SECTION 1. Section 31.06, Penal Code, is amended by adding Subsections (g) and (h) to read as follows:

(g) If the actor obtained livestock by issuing or passing a check or similar sight order, other than a postdated check or order, for the payment of money not later than the seventh day after the date the actor took possession of the livestock and the issuer did not have sufficient funds in or on deposit with the bank or other drawee for the payment in full of the check or order as well as all other checks or orders then outstanding, it is prima facie evidence of the actor's intent to deprive the owner of property under Section 31.03, including a drawee or third-party holder in due course who negotiated the check, if:

(1) the actor did not have an account with the bank or other drawee at the time that the actor issued the check or order; or

(2) on presentation not later than the 30th day after the date the actor issued the check or order, the bank or other drawee refused payment for lack of funds or insufficient funds and the issuer failed to pay the holder in full not later than the 10th day after the date the actor received notice of that refusal.

(h) In this section, "livestock" has the meaning assigned by Section 142.001, Agriculture Code.

SECTION 2. This Act takes effect September 1, 1999, and applies only to an offense committed on or after that date. 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. For 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 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.

Senate Amendment No. 1

Amend **CSHB 2190** by striking all below the enacting clause and substituting the following:

SECTION 1. Article 21.22, Code of Criminal Procedure, is amended to read as follows:

Art. 21.22. INFORMATION BASED UPON COMPLAINT. (a) No information shall be presented until affidavit has been made by some credible person charging the defendant with an offense. The affidavit shall be filed with the information. It may be sworn to before the district or county attorney who, for that purpose, shall have power to administer the oath, or it may be made before any officer authorized by law to administer oaths.

(b) For purposes of this article, a credible person on whose affidavit an information charging an offense under Chapter 31 or 32, Penal Code, involving a check or sight order may be presented includes, in addition to the holder of the check or sight order, the holder's assignee, agent, or representative or any other person retained by the holder to seek collection of the check or sight order.

SECTION 2. Section 31.06, Penal Code, is amended by amending Subsection (b) and adding Subsections (g) and (h) to read as follows:

(b) For purposes of Subsection (a)(2), ~~or~~ (f)(3), or (g)(2), notice may be actual notice or notice in writing that:

(1) is sent by registered or certified mail with return receipt requested or by telegram with report of delivery requested;

(2) is addressed to the issuer at the issuer's [his] address shown on:

(A) the check or order;

(B) the records of the bank or other drawee; or

(C) the records of the person to whom the check or order

has been issued or passed; and

(3) contains the following statement:

"This is a demand for payment in full for a check or order not paid because of a lack of funds or insufficient funds. If you fail to make payment in full within 10 days after the date of receipt of this notice, the failure to pay creates a presumption for committing an offense, and this matter may be referred for criminal prosecution."

(g) If the actor obtained livestock by issuing or passing a check or similar sight order, other than a postdated check or order, for the payment of

money on the date the actor took possession of the livestock and the actor did not have sufficient funds in or on deposit with the bank or other drawee for the payment in full of the check or order as well as all other checks or orders then outstanding, it is prima facie evidence of the actor's intent to deprive the owner of property under Section 31.03, including a drawee or third-party holder in due course who negotiated the check, if:

(1) the actor did not have an account with the bank or other drawee at the time that the actor issued the check or order; or

(2) on presentation not later than the 30th day after the date the actor issued the check or order, the bank or other drawee refused payment for lack of funds or insufficient funds and the issuer failed to pay the holder in full not later than the 10th day after the date the actor received notice of that refusal.

(h) In this section, "livestock" has the meaning assigned by Section 142.001, Agriculture Code.

SECTION 3. This Act takes effect September 1, 1999, and applies only to an offense committed on or after that date. 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. For 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 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.

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 2735 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Dukes called up with senate amendments for consideration at this time,

HB 2735, A bill to be entitled An Act relating to the authority of the General Services Commission to grant certain interests in certain real property owned by the state.

On motion of Representative Dukes, the house concurred in the senate amendments to **HB 2735** by (Record 498): 139 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Craddick; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Gray; Green; Greenberg;

Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Corte; Crownover; Jones, D.; Smithee.

Absent — Carter; Crabb; Eiland; Moreno, P.; Ramsay.

STATEMENT OF VOTE

When Record No. 498 was taken, my vote failed to register. I would have voted yes.

Crabb

Senate Amendment No. 1

Amend **HB 2735** as follows:

On page 1, line 36, insert the following:

(d) The commission shall approve all joint use agreements, franchises, and licenses under this section by a majority vote in an open meeting.

HB 2816 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Junell called up with senate amendments for consideration at this time,

HB 2816, A bill to be entitled An Act relating to the fee on delivery of certain petroleum products and programs for corrective actions in response to releases from petroleum storage tanks.

On motion of Representative Junell, the house concurred in the senate amendments to **HB 2816**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 2816** as follows:

On page 1, lines 12-13, strike the word "the" and insert the word "an";

On page 1, line 13, strike the words "specifically appropriated for that purpose" and insert "6.7 percent of the gross receipts of that account."

HB 2891 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Bailey called up with senate amendments for consideration at this time,

HB 2891, A bill to be entitled An Act relating to the creation of the Aldine Community Improvement District; authorizing the issuance of bonds and the imposition of taxes.

On motion of Representative Bailey, the house concurred in the senate amendments to **HB 2891** by (Record 499): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Corte; Crownover; Jones, D.; Smithee.

Absent — Allen; Hamric.

Senate Committee Substitute

CSHB 2891, A bill to be entitled An Act relating to the creation of the Aldine Community Improvement District; authorizing the issuance of bonds and the imposition of taxes.

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

SECTION 1. Chapter 376, Local Government Code, is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. ALDINE COMMUNITY IMPROVEMENT DISTRICT

Sec. 376.261. CREATION OF DISTRICT. (a) A special district to be known as the "Aldine Community Improvement District" exists as a governmental agency, body politic and corporate, and political subdivision of the state.

(b) The name of the district may be changed by resolution of the board.

(c) The creation of the district is essential to accomplish the purposes of Section 52, Article III, Section 59, Article XVI, and Section 52-a, Article III, Texas Constitution, and other public purposes stated in this subchapter.

Sec. 376.262. DECLARATION OF INTENT. (a) The creation of the district is necessary to promote, develop, encourage, and maintain

employment, commerce, transportation, housing, tourism, recreation, arts, entertainment, economic development, safety, and the public welfare in the Aldine Community area of Harris County.

(b) The creation of the district and this legislation are not to be interpreted to relieve the county from providing the level of services, as of September 1, 1999, to the area in the district or to release the county from the obligations the entity has to provide services to that area. The district is created to supplement and not supplant the county services provided in the area in the district.

(c) By creating the district and in authorizing the municipality, county, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

Sec. 376.263. DEFINITIONS. In this subchapter:

- (1) "Board" means the board of directors of the district.
- (2) "County" means Harris County.
- (3) "District" means the Aldine Community Improvement District.
- (4) "Municipality" means the City of Houston.

Sec. 376.264. BOUNDARIES. The district includes all the territory contained in the following described area:

Being 14.79 square miles, more or less,

Beginning at the northeast corner of Aldine Mail Road and the Hardy Toll Road

Thence north along the east right-of-way line of Hardy Toll Road a distance of approximately two (2) miles to the north right-of-way line of State Highway 525

Thence along the north right-of-way line of State Highway 525 approximately 2.75 miles to the west right-of-way line of John F. Kennedy Boulevard

Thence south along the west right-of-way line of John F. Kennedy Boulevard a distance of approximately one (1) mile to the City of Houston City limits

Thence east a distance of approximately one-quarter mile (1/4) mile to the east right-of-way line of Heathrow Forest Parkway

Thence north along the east right-of-way line of Heathrow Forest Parkway a distance of approximately one-quarter mile (1/4) mile to the City of Houston City limits

Thence east along the south side of the City of Houston City limits a distance of approximately one-half (1/2) mile

Thence south a distance of approximately one-quarter mile (1/4) mile

Thence east a distance of approximately one-eighth (1/8) mile to the east right-of-way line of Sequoia Bend Boulevard

Thence north along the east right-of-way line of Sequoia Bend Boulevard a distance of approximately one-half (1/2) mile to the north right-of-way line of State Highway 525

Thence east along the north right-of-way line of State Highway 525 a distance of approximately three-quarters (3/4) of one mile to the east right-of-way line of Lee Road

Thence south along the east right-of-way line of Lee Road becoming

Homestead Road a distance of approximately two and one-half miles to the north right-of-way line of Mount Houston Road

Thence west along the north right-of-way line of Mount Houston Road a distance of approximately one-quarter mile to the west line of the Southern Pacific Railroad property

Thence southwest along the Southern Pacific Railroad property a distance of approximately one and three-quarters mile to the north right-of-way line of Langley Road

Thence west along the north right-of-way line of Langley Road a distance of approximately one mile to the east right-of-way line of U.S. Highway 59

Thence northeast along the east right-of-way line of U.S. Highway 59 a distance of approximately one-quarter mile to the north right-of-way line of Little York Road

Thence west along the north right-of-way line of Little York Road a distance of approximately one-quarter mile to the east right-of-way line of Bentley Road

Thence north along the east right-of-way line of Bentley Road a distance of approximately one-quarter mile to the north right-of-way line of Sagebrush Road

Thence west along the north right-of-way line of Sagebrush Road a distance of approximately one-third (1/3) mile to the west line of Halls Bayou

Thence south along the west line of Halls Bayou a distance of approximately one-quarter mile to the north right-of-way line of Little York Road

Thence west along the north right-of-way line of Little York Road a distance of approximately one-half mile to the City of Houston City limits line adjacent to and east of Aldine Westfield Road

Thence north along the City of Houston City limits line adjacent to and east of Aldine Westfield Road a distance of approximately one-eighth mile along the east line of the City of Houston City limits line

Thence west along the north line of the City of Houston City limits line a distance of approximately three-quarter mile to the east right-of-way line of Hardy Toll Road

Thence north along the east right-of-way line of Hardy Toll Road a distance of approximately two miles to the north right-of-way line of Aldine Mail Road and the Point of Beginning

Save and Except the Following Parcels:

Parcel Number One: City of Houston Keith-Weiss Park

Parcel Number Two: That portion of City of Houston Melrose Park east of the right-of-way line of Hardy Toll Road

SAVE AND EXCEPT all tracts or parcels of land, rights-of-way, facilities, and improvements owned by an electric utility as defined by Section 31.002, Utilities Code or gas utility as defined by Section 101.003 or 121.001, Utilities Code.

Sec. 376.265. FINDINGS RELATING TO BOUNDARIES. The boundaries and field notes of the district form a closure. If a mistake is made in the field notes or in copying the field notes in the legislative process, the mistake does not in any way affect the:

(1) organization, existence, and validity of the district;

(2) right of the district to issue any types of bonds or refunding bonds for the purposes for which the district is created or to pay the principal of and interest on the bonds;

(3) right of the district to impose and collect assessments or taxes;
or

(4) legality or operation of the district or its governing body.

Sec. 376.266. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) All the land and other property included in the district will be benefited by the improvements and services to be provided by the district under powers conferred by Section 52, Article III, Section 59, Article XVI, and Section 52-a, Article III, Texas Constitution, and other powers granted under this subchapter, and the district is created to serve a public use and benefit.

(b) The creation of the district is in the public interest and is essential to:

(1) further the public purposes of the development and diversification of the economy of the state; and

(2) eliminate unemployment and underemployment and develop or expand transportation and commerce.

(c) The district will:

(1) promote the health, safety, and general welfare of residents, employers, potential employees, employees, visitors, consumers in the district, and the general public;

(2) provide needed funding for the Aldine Community area to preserve, maintain, and enhance the economic health and vitality of the area as a community and business center; and

(3) further promote the health, safety, welfare, and enjoyment of the public by providing pedestrian ways and by landscaping and developing certain areas in the district, which are necessary for the restoration, preservation, and enhancement of scenic beauty.

(d) Pedestrian ways along or across a street, whether at grade or above or below the surface, and street lighting, street landscaping, and street art objects are parts of and necessary components of a street and are considered to be a street or road improvement.

(e) The district will not act as the agent or instrumentality of any private interest even though many private interests will be benefited by the district, as will the general public.

Sec. 376.267. APPLICATION OF OTHER LAW. Except as otherwise provided by this subchapter, Chapter 375 applies to the district.

Sec. 376.268. CONSTRUCTION OF SUBCHAPTER. This subchapter shall be liberally construed in conformity with the findings and purposes stated in this subchapter.

Sec. 376.269. BOARD OF DIRECTORS IN GENERAL. (a) The district is governed by a board of nine directors who serve staggered terms of four years with four or five members' terms expiring June 1 of each odd-numbered year. At least one director must be a resident of the district. The board by resolution may increase or decrease the number of directors on the board if the board finds that the change is in the best interest of the district. The board must consist of not fewer than nine and not more than 30 directors.

(b) Subchapter D, Chapter 375, applies to the board to the extent that subchapter does not conflict with this subchapter.

(c) Notwithstanding Section 375.071, the imposition of a tax, assessment, or impact fee requires a vote of a majority of the directors serving.

Sec. 376.270. APPOINTMENT OF DIRECTORS; VACANCY. The county judge and members of the governing body of the county shall appoint directors from persons recommended by the board who meet the qualifications of Subchapter D, Chapter 375. A vacancy in the office of director because of the death, resignation, or removal of a director shall be filled by the remaining members of the board by appointing a qualified person for the unexpired term.

Sec. 376.271. POWERS OF DISTRICT. The district has:

(1) all powers necessary or required to accomplish the purposes for which the district was created;

(2) the rights, powers, privileges, authority, and functions of a district created under Chapter 375;

(3) the powers given to a corporation under Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), and the power to own, operate, acquire, construct, lease, improve, and maintain projects;

(4) the power to impose ad valorem taxes, assessments, or impact fees in accordance with Chapter 375 to provide improvements and services for a project or activity the district is authorized to acquire, construct, improve, or provide under this subchapter; and

(5) the power to correct, add to, or delete assessments from its assessment rolls after notice and hearing as provided by Subchapter F, Chapter 375.

Sec. 376.272. SALES AND USE TAX. (a) The district may impose a sales and use tax. Revenue from the tax may be used for any purpose for which ad valorem tax revenue of the district may be used.

(b) The district may not adopt a tax under this subchapter if, as a result of the adoption of the tax, the combined rate of all sales and use taxes imposed by the county and other political subdivisions of this state that have territory in the county would exceed two percent at any location in the district.

Sec. 376.273. EMINENT DOMAIN. The district may not exercise the power of eminent domain.

Sec. 376.274. EXPENSES AND LIABILITY FOR CERTAIN ACTIONS AFFECTING PROPERTY. (a) If the district, in exercising a power conferred by this subchapter, requires a relocation, adjustment, raising, lowering, rerouting, or changing the grade or the construction of any of the following items, the district must take that required action at the sole expense of the district:

(1) a street, alley, highway, overpass, underpass, road, railroad track, bridge, facility, or other property;

(2) an electric line, conduit, facility, or other property;

(3) a telephone or telegraph line, conduit, facility, or other property;

(4) a gas transmission or distribution pipe, pipeline, main, facility, or other property;

(5) a water, sanitary sewer, or storm sewer pipe, pipeline, main, facility, or other property;

(6) a cable television line, cable, conduit, facility, or other property;
or

(7) another pipeline, facility, or other property relating to the pipeline.

(b) The district shall bear damages that are suffered by owners of the facility or other property.

Sec. 376.275. RELATION TO OTHER LAW. If any provision of a law referenced in Section 376.271 is in conflict with or is inconsistent with this subchapter, this subchapter prevails. Any law referenced in this subchapter that is not in conflict or inconsistent with this subchapter is adopted and incorporated by reference.

Sec. 376.276. REQUIREMENTS FOR FINANCING SERVICES AND IMPROVEMENTS. The board may not finance services and improvement projects under this subchapter unless a written petition requesting those improvements or services has been filed with the board. The petition must be signed by:

(1) the owners of a majority of the assessed value of real property in the district as determined by the most recent certified county property tax rolls; or

(2) at least 50 persons who own land in the district, if there are more than 50 persons who own property in the district as determined by the most recent certified county property tax rolls.

Sec. 376.277. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act on behalf of the district in implementing a project or providing a service this subchapter authorizes.

(b) A nonprofit corporation created under this section:

(1) has the powers of and is considered for purposes of this subchapter to be a local government corporation created under Chapter 431, Transportation Code; and

(2) may implement any project or provide any services this subchapter authorizes.

(c) The board shall appoint the board of directors of a nonprofit corporation created under this section. The board of directors of the nonprofit corporation shall serve in the same manner as, for the same term as, and on the conditions of the board of directors of a local government corporation created under Chapter 431, Transportation Code.

Sec. 376.278. DISBURSEMENTS OR TRANSFERS OF FUNDS. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 376.279. BONDS. (a) The district may issue bonds or other obligations payable in whole or in part from ad valorem taxes, assessments, impact fees, revenues, grants, or other money of the district, or any combination of those sources of money, to pay for any authorized purpose of the district.

(b) Bonds or other obligations of the district may be issued in the form

of bonds, notes, certificates of participation, including other instruments evidencing a proportionate interest in payments to be made by the district, or other obligations that are issued in the exercise of the district's borrowing power and may be issued in bearer or registered form or not represented by an instrument but the transfer of which is registered on books maintained by or on behalf of the district.

(c) Except as provided by Subsection (d), the district must obtain the municipality's approval of:

- (1) the issuance of bonds for an improvement project;
- (2) the plans and specifications of the improvement project to be financed by the bonds; and
- (3) the plans and specifications of a district improvement project related to:

(A) the use of land owned by the county;

(B) an easement granted by the county; or

(C) a right-of-way of a street, road, or highway.

(d) If the district obtains the municipality's approval of a capital improvements budget for a specified period not to exceed five years, the district may finance the capital improvements and issue bonds specified in the budget without further municipal approval.

(e) Before the district issues bonds, the district shall submit the bonds and the record of proceedings of the district relating to authorization of the bonds to the attorney general for approval as provided by Chapter 53, Acts of the 70th Legislature, 2nd Called Session, 1987 (Article 717k-8, Vernon's Texas Civil Statutes).

Sec. 376.280. ASSESSMENTS. (a) The board may impose and collect an assessment for any purpose authorized by this subchapter.

(b) Assessments, reassessments, or assessments resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, expenses of collection, and reasonable attorney's fees incurred by the district:

- (1) are a first and prior lien against the property assessed;
- (2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and
- (3) are the personal liability of and charge against the owners of the property even if the owners are not named in the assessment proceedings.

(c) The lien is effective from the date of the resolution of the board levying the assessment until the assessment is paid. The board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

Sec. 376.281. PROPERTY EXEMPTED FROM TAX, FEE, OR ASSESSMENT. (a) The district may not impose an impact fee or assessment under Chapter 375 on a residential property, multi-unit residential property, or condominium.

(b) The district may not impose an impact fee or assessment on the property, equipment, or facilities of an electric utility as defined by Section 31.002, Utilities Code or a gas utility as defined by Section 101.003 or 121.001, Utilities Code.

Sec. 376.282. ELECTIONS. (a) In addition to the elections the district must hold under Subchapter L, Chapter 375, the district shall hold an election in the manner provided by that subchapter to obtain voter approval before the district imposes a maintenance tax or issues bonds payable from ad valorem taxes or assessments.

(b) The board may submit multiple purposes in a single proposition at an election.

Sec. 376.283. IMPACT FEES. The district may impose an impact fee for an authorized purpose as provided by Subchapter G, Chapter 375.

Sec. 376.284. MAINTENANCE TAX. (a) If authorized at an election held in accordance with Section 376.282, the district may impose and collect an annual ad valorem tax on taxable property in the district for the maintenance and operation of the district and the improvements constructed or acquired by the district or for the provision of services.

(b) the board shall determine the tax rate.

Sec. 376.285. DISSOLUTION OF DISTRICT. (a) The district may be dissolved as provided in Subchapter M, Chapter 375.

(b) Notwithstanding Section 375.264, the district may be dissolved if the district has debt. If the district has debt and is dissolved, the district shall remain in existence solely for the limited purpose of discharging its bonds or other obligations according to their terms.

Sec. 376.286. CONTRACTS. (a) To protect the public interest, the district may contract with the municipality or county for the provision of law enforcement services by the county or municipality in the district on a fee basis.

(b) The municipality, county, or another political subdivision of the state, without further authorization, may contract with the district to implement a project of the district or assist the district in providing the services authorized under this subchapter. A contract under this subsection may:

(1) be for a period on which the parties agree;

(2) include terms on which the parties agree;

(3) be payable from taxes or any other sources of revenue that may be available for such purpose; or

(4) provide that taxes or other revenue collected at a district project or from a person using or purchasing a commodity or service at a district project may be paid or rebated to the district under the terms of the contract.

(c) The district may enter into a contract, lease, or other agreement with or make or accept grants and loans to or from:

(1) the United States;

(2) the state or a state agency;

(3) any county, any municipality, or another political subdivision of the state;

(4) a public or private corporation, including a nonprofit corporation created by the board under this subchapter; or

(5) any other person.

(d) The district may perform all acts necessary for the full exercise of the powers vested in the district on terms and for the period the board determines advisable.

Sec. 376.287. INITIAL DIRECTORS. (a) The initial board consists of the following persons:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	<u>Clyde Bailey</u>
<u>2</u>	<u>Sylvia Bolling</u>
<u>3</u>	<u>Reyes Garcia</u>
<u>4</u>	<u>Leland Jauer</u>
<u>5</u>	<u>V. E. (Vic) Mauldin</u>
<u>6</u>	<u>W. Steve Mead</u>
<u>7</u>	<u>Art Murillo</u>
<u>8</u>	<u>Ray Shotwell</u>
<u>9</u>	<u>Richard Villanueva</u>

(b) Of the initial directors, the directors appointed for positions 1 through 4 serve until June 1, 2001, and the directors appointed for positions 5 through 9 serve until June 1, 2003.

(c) This section expires September 1, 2004.

Sec. 376.288. ANNEXATION OF CERTAIN TERRITORY BY GOVERNING BODY OF MUNICIPALITY. (a) If territory in a municipality's limit or extraterritorial jurisdiction is included in the district, the municipality's governing body may remove that territory from the district if the district does not have bonded indebtedness.

(b) To remove territory under Subsection (a), the governing body of the municipality must notify the secretary of the board of the district in writing that the territory is excluded from the district's territory.

(c) If a municipality annexes territory that is in its extraterritorial jurisdiction and included in the district, the governing body of the municipality shall notify the secretary of the board of the district in writing that the annexed territory is excluded from the district's territory.

SECTION 2. The legislature finds that:

(1) proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor, who has submitted the notice and Act to the Texas Natural Resource Conservation Commission;

(2) the Texas Natural Resource Conservation Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time;

(3) the general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with; and

(4) all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

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.

**HB 2896 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Coleman called up with senate amendments for consideration at this time,

HB 2896, A bill to be entitled An Act relating to the administration and operation of the state Medicaid program.

Representative Coleman moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2896**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2896**: Coleman, chair, Gray, West, Delisi, and Maxey.

**HB 2978 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Hamric called up with senate amendments for consideration at this time,

HB 2978, A bill to be entitled An Act relating to requiring an individual convicted of or receiving deferred adjudication for the offense of prostitution to undergo certain medical tests and to the creation of the offense of engaging in prostitution while knowingly infected with certain diseases.

Representative Hamric moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2978**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2978**: Hamric, chair, Hinojosa, Keel, Nixon, and Farrar.

**HB 2992 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative J. Davis called up with senate amendments for consideration at this time,

HB 2992, A bill to be entitled An Act relating to the creation of a business technology outreach program at the University of Houston.

On motion of Representative J. Davis, the house concurred in the senate amendments to **HB 2992**.

Senate Amendment No. 1

Amend **HB 2992**, adding an appropriately numbered SECTION to read as follows:

"SECTION __. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

**HB 3041 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Eiland called up with senate amendments for consideration at this time,

HB 3041, A bill to be entitled An Act relating to prompt payment of insurance claims.

Representative Eiland moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3041**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3041**: Smithee, chair, Burnam, G. Lewis, Olivo, and J. Moreno.

**HB 3061 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Hill called up with senate amendments for consideration at this time,

HB 3061, A bill to be entitled An Act relating to the issuance of permits for the operation of certain vehicles that exceed maximum size or weight limitations.

Representative Hill moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3061**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3061**: Hill, chair, Alexander, Siebert, Hawley, and Noriega.

**HB 3120 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Chisum called up with senate amendments for consideration at this time,

HB 3120, A bill to be entitled An Act relating to the duties and salary of the county attorney of Carson County.

On motion of Representative Chisum, the house concurred in the senate amendments to **HB 3120**.

Senate Amendment No. 1

Amend **HB 3120**, in SECTION 2 of the bill, in added Section 45.133, Government Code (Senate Committee Printing, page 1, between lines 40 and 41), by inserting the following:

(d) The county attorney of Carson County may not engage in the private practice of law but may complete all civil cases that are not in conflict with the interest of Carson County and that are pending in court before the county attorney takes office. The county attorney may not accept a fee from an attorney to whom the county attorney has referred a case. This subsection applies to the county attorney of Carson County and any assistant of the county attorney if, from all state and county funds received, the county attorney or assistant receives a salary that is equal to or more than 80 percent of the benchmark salary. This subsection does not apply to the county attorney of Carson County if the county attorney files with the county auditor an annual written waiver of the amount of compensation that is equal to or exceeds 80 percent of the benchmark salary. An amount waived under this subsection shall be used for expenses of the county attorney's office. This subsection does not apply to the county attorney of Carson County if, before September 1, 1999, the county attorney was paid in excess of the benchmark salary by the county in which the prosecutor serves.

(e) In this section, "benchmark salary" means the salary that is provided a district judge in the General Appropriations Act.

HB 3173 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hartnett called up with senate amendments for consideration at this time,

HB 3173, A bill to be entitled An Act relating to the duty of an officer to deposit certain money in the county treasury.

On motion of Representative Hartnett, the house concurred in the senate amendments to **HB 3173**.

Senate Amendment No. 1

Amend **HB 3173** by striking all below the enacting clause and substituting the following:

SECTION 1. Article 103.004, Code of Criminal Procedure, is amended to read as follows:

Art. 103.004. DISPOSITION OF COLLECTED MONEY. (a) Except as provided by Subsections (b) and (c), an [A*] officer who collects recognizances, bail bonds, fines, forfeitures, judgments, jury fees, and other obligations recovered in the name of the state under any provision of this title shall deposit the money in the county treasury not later than the next

regular business day after the date that the money is collected. If it is not possible for the officer to deposit the money in the county treasury by that date, the officer shall deposit the money in the county treasury as soon as possible, but not later than the third regular business day after the date that the money is collected [immediately pay the money to the county treasurer of the county for which the money was collected].

(b) The commissioners court of a county may authorize an officer who is required to deposit money under Subsection (a) to deposit the money in the county treasury not later than the seventh regular business day after the date that the money is collected.

(c) The commissioners court of a county with a population of less than 50,000 may authorize an officer who is required to deposit money under Subsection (a) to deposit the money in the county treasury not later than the 30th day after the date that the money is collected.

(d) The custodian of the county treasury shall deposit money received from fees imposed under Article 102.012 [~~of this code~~] in the special fund of the county treasury for the community supervision and corrections department serving the county.

SECTION 2. This Act takes effect September 1, 1999, and applies to obligations collected on or after that date. All obligations recovered before September 1, 1999, are governed by the law in effect on the date the obligations are collected.

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.

HB 3189 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Driver called up with senate amendments for consideration at this time,

HB 3189, A bill to be entitled An Act relating to the sale, servicing, installation, or monitoring of fire alarms or fire detection devices.

On motion of Representative Driver, the house concurred in the senate amendments to **HB 3189**.

Senate Amendment No. 1

Amend **HB 3189** by amending SECTION 2, Section 7, Article 5.43-2, Insurance Code, by striking subsection (b) (Committee printing, page 2 at line 61 through page 3 at line 1) and replacing it with a new subsections (b), (c), (d) and (e) to read as follows:

(b) Except as provided by subsection (c), a political subdivision may not offer residential alarm system sales, service, installation, or monitoring unless it has been providing monitoring services to residences within the boundaries of the political subdivision as of September 1, 1999. Any fee charged by the political subdivision may not exceed the cost of the monitoring.

(c) A political subdivision may:

(1) offer service, installing, or monitoring for property owned by the political subdivision or another political subdivision;

(2) allow for the response of an alarm or detection device by a law enforcement agency or fire department or by a law enforcement officer or firefighter acting in an official capacity; or

(3) offer monitoring to a financial institution, as defined by Section 59.301, Finance Code, that requests, in writing, that the political subdivision provide monitoring service to the financial institution.

(d) The limitations in subsection (b) do not apply to a political subdivision in a county with a population of less than 80,000 or in a political subdivision where monitoring is not otherwise provided or available.

(e) For purposes of Subsection (b), (c) and (d), the definition of "monitoring" means the receipt of fire alarm or supervisory signals or retransmission or communication of those signals to a fire service communications center that is located in this state or serves property in this state. This is not intended to require a political subdivision to be licensed under Art. 5.43-2, Texas Insurance Code.

Amend **HB 3189** by striking SECTION 17 as amended by **CSHB 2617** and **HCR 295**, Acts of the 76th Legislature and replacing it, where appropriate, to read SECTION ____, Section 13, Private Investigators and Private Security Agencies Act (Article 4413(29bb), Vernon's Texas Civil Statutes) by adding subsections (d), (e) and (f) to read as follows:

(d) Except as provided by subsection (e), a political subdivision may not offer residential alarm system sales, service, installation, or monitoring unless it has been providing monitoring services to residences within the boundaries of the political subdivision as of September 1, 1999. Any fee charged by the political subdivision may not exceed the cost of the monitoring.

(e) A political subdivision may offer:

(1) service, installation, or monitoring for property owned by the political subdivision or another political subdivision;

(2) allow for the response of an alarm or detection device by a law enforcement agency or by a law enforcement officer acting in an official capacity; or

(3) monitoring in connection with a criminal investigation; or

(4) monitoring to a financial institution, as defined by Section 59.301, Finance Code, that requests, in writing, that the political subdivision provide monitoring service to the financial institution.

(f) The limitations of subsection (d) do not apply to a political subdivision in a county with a population of less than 80,000 or in a political subdivision where monitoring is not otherwise provided or available.

**HB 2825 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Isett called up with senate amendments for consideration at this time,

HB 2825, A bill to be entitled An Act relating to the definitions of various types of weapons for the purposes of criminal prosecutions and to a defense to prosecution for certain weapon offenses.

Representative Isett moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2825**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2825**: Isett, chair, Hinojosa, Green, C. Jones, and Smith.

**HB 3209 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative J. Jones called up with senate amendments for consideration at this time,

HB 3209, A bill to be entitled An Act relating to the purposes for which money received by crime stoppers organizations may be used.

On motion of Representative J. Jones, the house concurred in the senate amendments to **HB 3209**.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 3209**, in SECTION 1 of the bill, amending Section 414.010, Government Code, between "apprehension" and "adjudication" by inserting the word "and" and by striking ", and confinement" on page 2, line 6, engrossed version and inserting "." in lieu thereof.

**HB 3211 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative McCall called up with senate amendments for consideration at this time,

HB 3211, A bill to be entitled An Act relating to state fiscal matters, including the printing and cancellation of certain warrants, consulting services, payroll deductions for savings bond purchases, advance payments, the collection of debts to the state, the collection of delinquent taxes, and the methods used by state agencies to make and receive payments.

Representative McCall moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3211**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3211**: McCall, chair, West, Y. Davis, Heflin, and Sadler.

**HB 3216 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative McCall called up with senate amendments for consideration at this time,

HB 3216, A bill to be entitled An Act relating to the standardization of credentialing of physicians.

On motion of Representative McCall, the house concurred in the senate amendments to **HB 3216**.

Senate Committee Substitute

CSHB 3216, A bill to be entitled An Act relating to the standardization of credentialing of physicians.

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

SECTION 1. The legislature recognizes that an efficient and effective physician credentialing program helps to ensure access to quality health care and also recognizes that physician credentialing activities have increased significantly as a result of health care reform and recent changes in health care delivery and reimbursement systems. Moreover, the resulting duplication of physician credentialing activities is unnecessarily costly and cumbersome for both the practitioner and the entity granting practice privileges. Therefore, it is the intent of the legislature that a mandatory credentials collection program be established which provides that once a physician's core credentials data are collected, validated, maintained, and stored they need not be collected again.

SECTION 2. The Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes) is amended by adding Subchapter G to read as follows:

SUBCHAPTER G. PHYSICIAN CREDENTIALING

Sec. 7.01. DEFINITIONS. In this subchapter:

(1) "Core credentials data" means:

(A) name and other demographic data;

(B) professional education;

(C) professional training;

(D) licenses; and

(E) Educational Commission for Foreign Medical Graduates certification.

(2) "Credentials verification organization" means an organization that is certified or accredited and organized to collect, verify, maintain, store, and provide to health care entities a health care practitioner's verified credentials data, including all corrections, updates, and modifications to that data. For purposes of this subdivision, "certified" or "accredited" includes certification or accreditation by a nationally recognized accreditation organization.

(3) "Health care entity" means:

(A) a health care facility or other health care organization licensed or certified to provide approved medical and allied health services in this state;

(B) an entity licensed by the Texas Department of Insurance as a prepaid health care plan or health maintenance organization or as an insurer to provide coverage for health care services through a network of providers; or

(C) a health care provider entity accepting delegated credentialing functions from a health maintenance organization.

(4) "Physician" means a holder of or applicant for a license under this Act as a medical doctor or doctor of osteopathy.

Sec. 7.01A. ASSOCIATIONS. Each provision of this Act that applies to a health care entity also applies to an association that represents federally qualified health centers. For purposes of this section, "federally qualified health center" has the meaning assigned by 42 U.S.C. Section 1396d(1)(2)(B), and its subsequent amendments.

Sec. 7.02. STANDARDIZED CREDENTIALS VERIFICATION PROGRAM.

(a) The board shall develop standardized forms and guidelines for and administer:

(1) the collection, verification, correction, updating, modification, maintenance, and storage of information relating to physician credentials; and

(2) the release of that information to health care entities or designated credentials verification organizations authorized by the physician to receive that information.

(b) Except as provided by Subsection (c), a physician whose core credentials data is submitted to the board is not required to resubmit the data when applying for practice privileges with a health care entity.

(c) A physician shall:

(1) provide to the board any correction, update, or modification of the physician's core credentials data not later than the 30th day after the date the data on file is no longer accurate; and

(2) resubmit the physician's core credentials data annually if the physician did not submit a correction, update, or modification during the preceding year.

(d) A health care entity that employs, contracts with, or credentials physicians must use the board to obtain core credentials data for items for which the board is designated or accepted as a primary source by a national accreditation organization. A health care entity may act through its designated credentials verification organization.

(e) This section does not restrict the authority of a health care entity to approve or deny an original or renewal application for hospital staff membership, clinical privileges, or managed care network participation.

Sec. 7.03. FURNISHING OF DATA TO HEALTH CARE ENTITY. Not later than the 15th business day after the date the board receives a request for the data, the board shall make available to a health care entity or its designated credentials verification organization all core credentials data it collects on a physician, including any correction, update, or modification of that data, if authorized by the physician.

Sec. 7.04. REVIEW OF DATA BY PHYSICIAN. (a) Before releasing a physician's core credentials data from its data bank for the first time, the board shall provide to the affected physician 15 business days to review the data and request reconsideration or resolution of errors in or omissions from the data. The board shall include with the data any change or clarification made by the physician.

(b) The board shall notify a physician of any change to the physician's core credentials data when a change is made or initiated by a person other than the physician.

(c) A physician may request to review the physician's core credentials data collected at any time after the initial release of information, but the

board is not required by virtue of a request to hold, release, or modify any information.

Sec. 7.05. DATA DUPLICATION PROHIBITED. (a) A health care entity may not collect or attempt to collect duplicate core credentials data from a physician if the information is already on file with the board. This section does not restrict the right of a health care entity to request additional information not included in the core credentials data on file with the board that is necessary for the entity to credential the physician. A health care entity or its designated credentials verification organization may collect any additional information required by the health care entity's credentialing process from a primary source of that information.

(b) A state agency may not collect or attempt to collect duplicate core credentials data from a physician if the information is already on file with the board. This section does not restrict the right of a state agency to request additional information not included in the core credentials data on file with the board that the agency considers necessary for its specific credentialing purposes.

(c) The board by rule may except from Subsections (a) and (b) of this section a request for core credentials data that is necessary for a health care entity to provide temporary privileges during the credentialing process.

Sec. 7.06. IMMUNITY. A health care entity or its designated credentials verification organization is immune from liability arising from its reliance on data furnished by the board under this subchapter.

Sec. 7.07. RULES. The board shall adopt rules as necessary to develop and implement the standardized credentials verification program established by this subchapter.

Sec. 7.08. CONFIDENTIALITY. The information collected, maintained, or stored by the board under this subchapter is privileged and confidential and not subject to discovery, subpoena, or other means of legal compulsion for its release or to disclosure under Chapter 552, Government Code, except as otherwise provided by this subchapter.

Sec. 7.09. USE OF INDEPENDENT CONTRACTOR. The board may contract with an independent contractor to collect, verify, maintain, store, or release information. The contract must provide for board oversight and for the confidentiality of the information.

Sec. 7.10. FEES. (a) The board shall charge and collect fees in amounts necessary to cover its cost of operating and administering its duties and functions under this subchapter.

(b) The board may waive a fee for a state agency that is required to obtain core credentials data from the board and that is prohibited by Section 7.05 of this Act from collecting duplicate data.

Sec. 7.11. GIFTS, GRANTS, AND DONATIONS. In addition to any fees paid to the board or money appropriated to the board, the board may receive and accept a gift, grant, donation, or other thing of value from any source, including the United States or a private source.

SECTION 3. The Texas State Board of Medical Examiners shall implement this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for

that purpose, the board may implement this Act using other appropriations, gifts, grants, or donations available for that purpose.

SECTION 4. (a) Except as provided by Section 3 of this Act, not later than September 1, 2001, the Texas State Board of Medical Examiners shall make available the core credentials data required by this Act.

(b) A health care entity is not required to use the board's core credentials data until September 1, 2001, and not until that data is available from the board for items for which the board is designated or accepted as a primary source by a national accreditation organization.

SECTION 5. This Act takes effect September 1, 1999.

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.

Senate Amendment No. 1

Amend **HB 3216**, SECTION 2, Sec. 7.09, by adding a new sentence at the end Sec. 7.09, following the words "confidentiality of the information.", to read "If the board contracts with an independent entity that is not a governmental unit to carry out the provisions of this subchapter, the independent entity is not immune from liability.

HB 3328 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Coleman called up with senate amendments for consideration at this time,

HB 3328, A bill to be entitled An Act relating to speed limits on highways of this state.

Representative Coleman moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3328**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3328**: Gallego, chair, Alexander, Siebert, B. Turner, and Walker.

HB 3431 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Delisi called up with senate amendments for consideration at this time,

HB 3431, A bill to be entitled An Act relating to the Council on Workforce and Economic Competitiveness.

On motion of representative Delisi, the house concurred in the senate amendments to **HB 3431**.

Senate Amendment No. 1

Amend SECTION 5 of **HB 3431** on page 2, as follows:

- (1) On line 46, strike "analyzing work development"
- (2) On line 47, strike "programs that focus"

Senate Amendment No. 2

Amend **HB 3431**, adding an appropriately numbered SECTION to read as follows:

SECTION _____. Section 2308.303(a)(9), Government Code, is amended to read as follows:

(9) promote cooperation and coordination among public organizations, community organizations, charitable and religious organizations, and private businesses providing workforce development, in a manner consistent with the nondiscrimination principles and safeguards stated in 42 U.S.C. Section 604a.

**HB 3470 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Naishtat called up with senate amendments for consideration at this time,

HB 3470, A bill to be entitled An Act relating to the creation of a Parents as Scholars pilot program for certain persons eligible to receive TANF benefits.

Representative Naishtat moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3470**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3470**: Olivo, chair, Rangel, Naishtat, Christian, and Cuellar.

**HB 3517 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Goodman called up with senate amendments for consideration at this time,

HB 3517, A bill to be entitled An Act relating to the detention, adjudication, and disposition of certain persons within the juvenile justice system.

On motion of Representative Goodman, the house concurred in the senate amendments to **HB 3517**.

Senate Amendment No. 1

Amend **HB 3517** on page 11, line 15 after the letter "(A)" and before the word "order" add the following:

"provided that the child meets the commitment criteria under Subtitle C or D Title 7 of the Health and Safety Code,"

Amend **HB 3517** on page 15, line 23 after the letter "(A)" and before the word "order" add the following:
"provided that the child meets the commitment criteria under Subtitle C or D Title 7 of the Health and Safety Code,"

Senate Amendment No. 2

Amend **HB 3517** (Senate Committee Report) by inserting a new SECTION 35 (page 24, between lines 6 and 7) to read as follows and renumbering subsequent SECTIONS appropriately:

SECTION 35. Sections 141.086(g), (h), (i), (j), and (k), Human Resources Code, are amended to read as follows:

(g) For a facility constructed under this section, ~~[the following amounts may be appropriated:~~

~~[(1) not more than 50 percent of the operating costs of the facility during the 1997 fiscal year; and~~

~~[(2) not more than 25 percent of the operating costs of the facility may be reimbursed by the commission [during each of the 1998 and 1999 fiscal years].~~

(h) It is the intent of the legislature to appropriate the full amount of money authorized under Subsection (g)~~[(2)]~~.

(i) ~~[On and after September 1, 1999, a facility constructed under this section must be operated entirely by the county using the facility.~~

~~[(j)]~~ The commission shall conduct an annual audit of the operating costs for a fiscal year of a facility constructed under this section for each fiscal year for which funds are appropriated unless the county in which the facility is located has conducted an annual audit [through fiscal year 1999]. The commission shall submit a report on the results of its or the county's ~~[the]~~ audit to the Legislative Budget Board and the governor not later than the 60th day after the last day of the fiscal year covered by the audit.

~~[(j)]~~ ~~[(k)]~~ In this section, "operating costs" means the operating costs of a facility at an 80-percent occupancy rate.

Senate Amendment No. 3

Amend **HB 3517** as follows:

(1) On page 11, line 35, insert the following after "placement" and before the period: ", subject to an express appropriation of funds for the purpose"

(2) On page 15, line 42, insert the following after "placement" and before the period: ", subject to an express appropriation of funds for the purpose"

HB 3521 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Noriega called up with senate amendments for consideration at this time,

HB 3521, A bill to be entitled An Act relating to motor vehicle title services; providing a criminal penalty.

On motion of Representative Noriega, the house concurred in the senate amendments to **HB 3521**.

Senate Amendment No. 1

Amend **HB 3521** as follows:

(1) Immediately before SECTION 1 of the bill (Senate committee report, page 1, between lines 10 and 11) insert a new SECTION 1 of the bill to read as follows:

SECTION 1. This Act may be known as the Troy Blando Motor Vehicle Theft Prevention Act of 1999.

(2) Renumber subsequent sections of the bill appropriately.

**HB 3543 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Hodge called up with senate amendments for consideration at this time,

HB 3543, A bill to be entitled An Act relating to competitive bidding by certain mass transit authorities.

On motion of Representative Hodge, the house concurred in the senate amendments to **HB 3543** by (Record 500): 141 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddock; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Zbrank.

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

Absent, Excused — Corte; Crownover; Jones, D.; Smithee.

Absent — Howard; McCall; Yarbrough.

Senate Committee Substitute

CSHB 3543, A bill to be entitled An Act relating to competitive bidding by mass transit authorities.

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

SECTION 1. Section 451.110(c), Transportation Code, is amended to read as follows:

(c) Subsection (a) does not apply to a contract for:

(1) ~~\$25,000 or less [by an authority created before 1980 in which the principal municipality has a population of less than 1.2 million;~~

~~[(2) \$15,000 or less by an authority not described by Subdivision (†)];~~

(2) ~~[(3)]~~ the purchase of real property;

(3) ~~[(4)]~~ personal or professional services; or

(4) ~~[(5)]~~ the acquisition of an existing transit system.

SECTION 2. Section 451.111(a), Transportation Code, is amended to read as follows:

(a) Unless the posting requirement in Subsection (b) is satisfied, a board may not let a contract that is:

(1) for more than[-

~~[(A)] \$25,000 [by an authority created before 1980 in which the principal municipality has a population of less than 1.2 million; or~~

~~[(B)] \$15,000 by an authority not described by Paragraph (A)]; and~~

(2) for:

(A) the purchase of real property; or

(B) consulting or professional services.

SECTION 3. Section 452.107(c), Transportation Code, is amended to read as follows:

(c) The executive committee may authorize the negotiation of a contract without competitive sealed bids or proposals if:

(1) the aggregate amount involved in the contract is \$25,000 ~~[\$15,000]~~ or less;

(2) the contract is for construction for which not more than one bid or proposal is received;

(3) the contract is for services or property for which there is only one source or for which it is otherwise impracticable to obtain competition;

(4) the contract is to respond to an emergency for which the public exigency does not permit the delay incident to the competitive process;

(5) the contract is for personal or professional services or services for which competitive bidding is precluded by law; or

(6) the contract, without regard to form and which may include bonds, notes, loan agreements, or other obligations, is for the purpose of borrowing money or is a part of a transaction relating to the borrowing of money, including:

(A) a credit support agreement, such as a line or letter of credit or other debt guaranty;

(B) a bond, note, debt sale or purchase, trustee, paying agent, remarketing agent, indexing agent, or similar agreement;

(C) an agreement with a securities dealer, broker, or underwriter; and

(D) any other contract or agreement considered by the executive committee to be appropriate or necessary in support of the authority's financing activities.

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.

HB 3544 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Hodge called up with senate amendments for consideration at this time,

HB 3544, A bill to be entitled An Act relating to student loan repayment assistance for certain dentists.

On motion of Representative Hodge, the house concurred in the senate amendments to **HB 3544**.

Senate Committee Substitute

CSHB 3544, A bill to be entitled An Act relating to student loan repayment assistance for certain dentists.

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

SECTION 1. Chapter 61, Education Code, is amended by adding Subchapter T to read as follows:

SUBCHAPTER T. REPAYMENT OF CERTAIN DENTAL EDUCATION LOANS

Sec. 61.901. REPAYMENT AUTHORIZED. The board may provide, using funds appropriated for that purpose and in accordance with this subchapter and rules of the board, assistance in the repayment of student loans for dentists who apply and qualify for the assistance.

Sec. 61.902. ELIGIBILITY. (a) To be eligible to receive repayment assistance, a dentist must apply to the board and have completed at least one year of dental practice in an area of the state that is underserved with respect to dental care.

(b) The board by rule may provide for repayment assistance on a pro rata basis for dentists in part-time practice described by Subsection (a).

Sec. 61.903. LIMITATION. A dentist may receive repayment assistance grants for each of not more than five years.

Sec. 61.904. ELIGIBLE LOANS. (a) The board may provide repayment assistance for the repayment of any student loan for education at a public or private institution of higher education in this state, including loans for undergraduate education, received by a dentist through any lender.

(b) The board may withhold repayment assistance for a student loan that is in default at the time of the dentist's application.

(c) Each fiscal biennium, the board shall attempt to allocate all funds appropriated to it for the purpose of providing repayment assistance under this subchapter.

Sec. 61.905. REPAYMENT. (a) The coordinating board shall deliver any repayment made under this subchapter in a lump sum payable to the lender and the dentist, in accordance with any applicable federal law.

(b) A repayment made under this subchapter may be applied to any amount due in connection with the loan.

Sec. 61.906. ADVISORY COMMITTEES. The board may:

(1) appoint advisory committees from outside the board's membership to assist the board in performing its duties under this subchapter; and

(2) request the assistance of the Oral Health Services Advisory Committee in performing those duties.

Sec. 61.907. ACCEPTANCE OF FUNDS. The board may accept gifts, grants, and donations for the purposes of this subchapter.

Sec. 61.908. RULES. (a) The board shall adopt rules necessary for the administration of this subchapter, including a rule that sets a maximum amount of repayment assistance that may be received by a dentist in one year. The board may consult with the Oral Health Services Advisory Committee to assist the board in establishing priorities among eligible dentists for repayment assistance, taking into account the degree of an area's shortage of dental services, geographic locations, whether the dentist is or will be providing service in an underserved area with respect to dental services, and other criteria the board considers appropriate.

(b) The coordinating board shall distribute to each dental school in this state and to appropriate state agencies and professional associations copies of the rules adopted under this section and other pertinent information relating to this subchapter.

Sec. 61.909. TOTAL AMOUNT OF REPAYMENT ASSISTANCE. The total amount of repayment assistance distributed by the board under this subchapter may not exceed the total amount of gifts and grants accepted by the board for repayment assistance, dental school tuition set aside under Section 61.910, legislative appropriations for repayment assistance, and other funds available to the board for purposes of this subchapter.

Sec. 61.910. DENTAL SCHOOL TUITION SET ASIDE FOR CERTAIN LOAN REPAYMENTS. (a) The governing board of each dental school of an institution of higher education shall set aside two percent of tuition charges for resident students enrolled in a degree program for training dentists.

(b) The amount set aside shall be transferred to the comptroller of public accounts to be maintained in the state treasury for the sole purpose of repayment of student loans of dentists under this subchapter. Section 403.095(b), Government Code, does not apply to the amount set aside by this section.

SECTION 2. This Act takes effect September 1, 1999.

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.

**HB 3549 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Heflin called up with senate amendments for consideration at this time,

HB 3549, A bill to be entitled An Act relating to the administration and collection of ad valorem taxes and certain local standby fees.

Representative Heflin moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3549**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3549**: Heflin, chair, McCall, Y. Davis, Keffer, and Craddick.

**HB 3554 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Deshotel called up with senate amendments for consideration at this time,

HB 3554, A bill to be entitled An Act relating to correcting the statutory description of the boundaries of the Port Arthur Navigation District.

On motion of Representative Deshotel, the house concurred in the senate amendments to **HB 3554** by (Record 501): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Corte; Crownover; Jones, D.; Smithee.

Absent — Cook; Reyna, A.

Senate Amendment No. 1

Amend **HB 3554** as follows:

1. In Bill Section 1, on page 1, line 14, before the word "There" insert "(a)".
2. In Bill Section 1, on page 1, line 42, strike the word "are" and insert "include two tracts of land located in Jefferson County, Texas, described".

3. In Bill Section 1, on page 1, line 43, before the word "BEGINNING" insert the words "(1) FIRST TRACT".

4. In Bill Section 1, on page 2, line 28, add a new subsections (a)(2) and (b) to read as follows:

(2) SECOND TRACT BEGINNING at a point in the geographic middle of Sabine Lake due east of the junction of the center line of the Intracoastal Canal and the center line of the Sabine-Neches Ship Canal;

THENCE southward and westward along the center line of Sabine Lake to its junction with the northeast corner of the Sabine Pass Port Authority boundary as it exists as of January 1, 1999;

THENCE due west along the north boundary line of the Sabine Pass Port Authority to its junction with the western bank of the Sabine-Neches Ship Canal;

THENCE northward and westward along the meanders of the western bank of the Sabine-Neches Ship Canal to its junction with the center line of the Intracoastal Canal.

(b) Subsection (a)(2) shall not apply to land acquired from the state by navigation districts under Article 8225, Revised Civil Statutes of Texas 1925, recodified in Sections 61.116 and 61.117 of the Water Code, or under any general or special act. Subsection (a)(2) shall have no effect on Section 61.116 or 61.117 of the Water Code. For land acquired from the state as described in this subsection, the State of Texas expressly reserves for the benefit of the Permanent School fund all oil, gas and other minerals in, on or under the property, together with the unrestricted right of ingress and egress to explore for and develop minerals reserved therein.

HB 3573 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative R. Lewis called up with senate amendments for consideration at this time,

HB 3573, A bill to be entitled An Act relating to extracurricular activities sponsored or sanctioned by a school district or the University Interscholastic League.

On motion of Representative R. Lewis, the house concurred in the senate amendments to **HB 3573** by (Record 502): 144 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall;

McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Corte; Crownover; Jones, D.; Smithee.

Senate Amendment No. 1

Amend **HB 3573** as follows:

(1) Strike SECTIONS 5 and 6 of the bill (Senate Committee Report, page 1, line 64 through page 2, line 23).

(2) Renumber SECTIONS 7 and 8 of the bill as SECTIONS 5 and 6.

HB 3657 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Oliveira called up with senate amendments for consideration at this time,

HB 3657, A bill to be entitled An Act relating to the continuation, funding, and operation of certain workforce development programs.

On motion of Representative Oliveira, the house concurred in the senate amendments to **HB 3657**.

Senate Committee Substitute

CSHB 3657, A bill to be entitled An Act relating to the continuation, funding, and operation of certain workforce development programs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
ARTICLE 1. SMART JOBS FUND PROGRAM

SECTION 1.01. Section 481.151, Government Code, is amended to read as follows:

Sec. 481.151. DEFINITIONS. In this subchapter:

(1) "County average weekly wage" means the average weekly wage paid by all employers in a county that are covered by unemployment compensation insurance, as determined by the Texas Workforce Commission for the most recent period for which data is available. [~~"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.

~~(3)~~ ~~(5)~~ "Employer" means a person that employs one or more employees.

~~(4)~~ ~~(6)~~ "Executive director" means the executive director of the department.

~~(5)~~ ~~(7)~~ "Existing employer" means an employer that:

(A) has been liable to pay contributions under Subtitle A, Title 4, Labor Code, ~~[(Texas Unemployment Compensation Act)]~~ for more than one year;

(B) has employees; and

(C) is in compliance with the reporting and payment requirements of Subtitle A, Title 4, Labor Code ~~[that Act]~~, as determined by the Texas Workforce Commission.

~~(6)~~ "Group health benefit plan" means:

(A) a health plan provided by a health maintenance organization established under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code);

(B) a health benefit plan approved by the commissioner of insurance; or

(C) a self-funded or self-insured employee welfare benefit plan that provides health benefits and is established in accordance with the Employee Retirement Income Security Act of 1974 (29 U.S.C. Section 1001 et seq.), as amended.

~~(7)~~ ~~(8)~~ "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)~~ "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.

~~(8)~~ ~~(10)~~ "Job" means employment on a basis customarily considered full-time for the applicable occupation and industry.

~~(9)~~ "Large business" means a business entity that employs at least 500 employees.

~~(10)~~ "Medium business" means a business entity that employs more than 99 but fewer than 500 employees.

~~(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 a [an eligible] business entity that employs [with] not more than 20 employees.

~~(12)~~ ~~(13)~~ "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.

(13) [(14)] "Minority group members" include:

(A) African-Americans;

(B) American Indians;

(C) Asian-Americans;

(D) Mexican-Americans and other Americans of Hispanic

origin; and

(E) women.

(14) [(15)] "Program" means the smart jobs fund program created under this subchapter.

(15) [(16)] "Project" means a specific employment training project developed and implemented under this subchapter.

(16) [(17)] "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.

(17) "Qualified job" means a job for which an application has been submitted and that:

(A) pays at least 100 percent of the county average weekly wage; and

(B) is covered by a group health benefit plan for which the business offers to pay at least 50 percent of the premiums or other charges assessed for employee-only coverage under the plan, regardless of whether an employee may voluntarily waive the coverage.

(18) "Small business" means a business entity that employs more than 20 but fewer than 100 employees [has the meaning assigned that term by Section 481.101].

(19) ["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 Commission, adjusted for regional variances.

[(20)] "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)] "Trainee" means a participant in a project funded under this subchapter.

(20) [(22)] "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 1.02. Section 481.152, Government Code, is amended to read as follows:

Sec. 481.152. SMART JOBS FUND PROGRAM; PURPOSE; ADMINISTRATION. (a) The smart jobs fund program is created in the department as a work force development incentive program to enhance employment opportunities for residents of this state and to increase the job skills of the ~~[meet the needs of]~~ existing work force by providing job training assistance to businesses operating ~~[and new industries]~~ in, or relocating to, this state.

(b) The program shall award grants for ~~[give priority to]~~ the creation and retention of qualified ~~[family wage]~~ jobs ~~[and focus on employers in industries that promote high-skill, high-wage jobs in high-technology areas and on demand occupations that provide those jobs].~~ At least 60 percent of the money spent under the program shall be used for projects that assist existing employers.

(c) The governing board by rule shall develop and adopt a scoring system that evaluates the economic impact of grant applications and reflects the criteria set forth in this subchapter. The executive director shall use the scoring system and a competitive process to award grants. It is the intent of the legislature that, to the greatest extent practicable:

(1) money from the smart jobs fund be spent:

(A) in all areas of this state; and

(B) in approximate proportion to each region's share of the state's population, civilian labor force, unemployed, and submission of grant applications for qualified jobs; and

(2) grants shall be awarded to micro-businesses, small businesses, medium businesses, large businesses, and minority employers in a manner proportionate to the number of persons employed by those categories of businesses.

(d) The governing board and the department shall determine appropriate means to accomplish the goals of the program. As necessary to implement those goals, the governing board and the department may work in conjunction with the Texas Workforce Commission and the comptroller.

(e) The department shall administer the program.

(f) ~~(d)~~ The executive director may employ personnel as necessary to administer the program.

(g) In implementing provisions under this subchapter regarding the classification of this state into regions, the department shall use the uniform service regions established by the comptroller under Section 120, Article V, Chapter 19, Acts of the 72nd Legislature, 1st Called Session, 1991 (the General Appropriations Act).

SECTION 1.03. Section 481.153, Government Code, is amended to read as follows:

Sec. 481.153. RULES. The governing ~~[policy]~~ board shall adopt rules as necessary to implement the program.

SECTION 1.04. Section 481.154, Government Code, is amended to read as follows:

Sec. 481.154. FUNDING; RAINY DAY FUND. (a) The smart jobs fund

is established as a special trust fund in the custody of the comptroller 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;

(2) gifts, grants, and other donations received by the department for the fund; and

(3) any amounts appropriated by the legislature for the program from the general revenue fund.

(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 the lesser of:

(1) five percent of the total amount appropriated for the program for that fiscal year; or

(2) \$1.5 million.

(d) The smart jobs rainy day fund is established as a special trust fund in the custody of the comptroller separate and apart from all public money or funds of this state. The smart jobs rainy day fund is composed of:

(1) money transferred to that fund as provided by Section 204.123, Labor Code;

(2) money returned by employers or recouped by the program under Section 481.159(d); and

(3) any other money received by the governing board for deposit in that fund.

(e) The governing board may authorize the executive director to use money in the smart jobs rainy day fund if:

(1) the governing board determines, after consulting with the comptroller, that the smart jobs fund contains insufficient money to cover the amounts appropriated by the legislature to operate the program; and

(2) the Texas Workforce Commission has determined that:

(A) the unemployment rate in this state is 125 percent of the average unemployment rate in this state during the preceding three years; or

(B) a severe economic dislocation is occurring in a specific region of this state.

(f) The Texas Workforce Commission by rule shall define "severe economic dislocation" for purposes of Subsection (e). In adopting a definition, the commission shall consider employment-related factors, including:

(1) massive layoffs in a region of this state caused by:

(A) the closure of military bases;

(B) the effect of the implementation of the North American Free Trade Agreement;

(C) employer relocations; or

(D) other analogous situations; and

(2) the number of jobs lost in a region compared to the region's usual rates of employment.

(g) If the governing board approves the use of money from the smart jobs rainy day fund because of a severe economic dislocation occurring in a specific region of the state, the executive director may use the money allocated from the smart jobs rainy day fund solely for projects located in the affected region.

(h) Notwithstanding any other provision of this section, the total combined amount spent in any fiscal year from the smart jobs fund and the smart jobs rainy day fund may not exceed the amount appropriated by the legislature for that fiscal year for the operation of the smart jobs fund program.

(i) If, during any three consecutive months, the balance in the smart jobs fund or the smart jobs rainy day 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, the executive director shall immediately transfer the excess from the applicable fund to the Unemployment Compensation Fund created under Section 203.021, Labor Code.

SECTION 1.05. Section 481.155, Government Code, is amended to read as follows:

Sec. 481.155. GRANTS. (a) The executive director may award grants for projects that meet the requirements of this chapter. ~~[It is the intent of the legislature that, to the greatest extent practicable, money from the smart jobs fund shall be spent in all areas of the state. The executive director may award a grant or a combination of grants in any fiscal year to a single employer in excess of \$1,500,000 or at a rate greater than 10 percent of the annual wages of the new or existing job being created or retained with the grant only if:~~

~~[(1) the employer locates or expands in an enterprise zone;~~

~~[(2) the employer locates or expands in an adversely affected defense-dependent community;~~

~~[(3) the employer locates or expands in an area having an unemployment rate 1-1/2 times greater than the statewide average at the time of the application;~~

~~[(4) the employer locates or expands in a county with a population of less than 75,000;~~

~~[(5) at least 25 percent of the employees hired or retained by the employer are economically disadvantaged individuals as defined by Section 2303.402(e); or~~

~~[(6) the employer is a small business or a micro-business.]~~

~~(b) [The executive director shall attempt to ensure that at least 20 percent of the total dollar amount of grants awarded under the program are awarded to minority employers.~~

~~[(c) The program is job-driven.] A grant may not be awarded unless each employer participating in the project certifies that:~~

~~(1) a job or job opening exists or will exist at the end of the project for which the grant is sought; and~~

~~(2) the job or job opening will be filled by a participant in the project.~~

(c) Except as otherwise provided by this subsection, a grant may not be awarded unless each employer participating in the project certifies that each job under the project is covered by a group health benefit plan for which the business pays at least 50 percent of the premiums or other charges assessed for employee-only coverage under the plan. The executive director may waive the coverage requirement for a particular job if the affected employee voluntarily waives the coverage in the manner prescribed by rules adopted by the governing board.

(d) A grant may not be awarded for a project under this section unless each employer participating in the project certifies that the starting wage for a new job created through the project will be equal to or greater than the county average weekly [prevailing] wage for the county in which the job or project is located [that occupation in the local labor market area] and that the wage for a job existing on the date that the project is scheduled to begin will be increased to the greater of:

(1) three percent for a micro-business or small business or five percent for a business that is not a micro-business or small business over the wage in effect on the day before the date on which the project is scheduled to begin for that job; or

(2) 100 percent of the county average weekly [prevailing] wage for the county in which the job or project is located [that occupation in the local labor market area].

(e) An employer may apply for a grant under this chapter. ~~An [and an] employer [who is a micro-business]~~ may request a modification of the requirements provided by Subsection (d) and Section 481.159(c), if:

~~[(1) the employer is required to reduce or eliminate the employer's work force because of reductions in overall employment within an industry;~~

~~[(2) a substantial change in the skills required to continue the employer's business exists because of technological changes; or~~

~~[(3) other] reasonable factors exist for the modification, as determined by the executive director [exist].~~

(f) Grants awarded under this section for which the executive director has modified the requirements of Subsection (d) may not, in any fiscal year, exceed 10 percent of the total dollar amount of grants awarded under the program in that year.

(g) Unless modified by the executive director under rules adopted by the governing [policy] board, a grant may not be awarded for a project unless each employer participating in the project certifies that it will continue to spend on nonmanagerial training an amount from private sources equal to the average amount spent by that employer on such training for the most recent two-year period.

(h) A grant may not be awarded for a project if the project will impair existing contracts for services or collective bargaining agreements, except that a project inconsistent with the terms of a collective bargaining agreement may be undertaken with the written concurrence of the collective bargaining unit and the employer or employers who are parties to the agreement.

~~[(i) During each state fiscal year the executive director shall attempt to ensure that at least 50 percent of the total dollar amount of grants awarded~~

~~under this section is awarded to small businesses, as defined by Section 481.101.~~

~~[(j) In awarding a grant under this section, the executive director shall give priority to a project that is located in an enterprise zone as defined by Section 2303.003.]~~

SECTION 1.06. Section 481.156, Government Code, is amended to read as follows:

Sec. 481.156. GRANT APPLICATION; AWARDING OF GRANTS. (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~~];

(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~~]; or

(3) one or more employers acting in partnership with a consortium composed of more than one provider to secure training [~~for demand occupations, emerging occupations, or manufacturing occupations~~].

(b) A grant application must be filed with the department in a form approved by the executive director and, except as provided by Subsection (c), must include a complete business and training plan, including:

(1) the number and kind of jobs available;

(2) the skills and competencies required for the identified jobs;

(3) the wages to be paid to trainees on successful completion of the project;

(4) the goals, objectives, and outcome measures for the project;

(5) the proposed curriculum for the project; and

(6) the projected cost per person enrolled, trained, hired, and retained in employment.

(c) The governing board by rule may exempt a micro-business from the requirement to submit a business and training plan that complies with Subsection (b). The governing board by rule shall establish a simplified application process for grant applications from micro-businesses.

(d) [(e)] The department may provide assistance with the application process to all applicants and shall give priority to assisting applicants who are small businesses or micro-businesses [in formulating the business and training plan required under Subsection (b)].

(e) [(d)] The department shall minimize the length of the application form and shall simplify as much as possible the review process for grant applications.

(f) The department shall notify each applicant as to whether the application is complete not later than the fifth business day after the date on which the application is received by the department. [(e) The executive director shall act on a completed application not later than the 30th day after the date on which the application is filed with the department.]

SECTION 1.07. Subchapter J, Chapter 481, Government Code, is amended by adding Section 481.1565 to read as follows:

Sec. 481.1565. PARTICIPATION IN ADDITIONAL PROGRAMS;

APPLICATION REQUIREMENTS. (a) A business may not apply both for a grant under this subchapter and to a public community or technical college for customized training and assessment from the college through a grant issued to the college under the skills development fund program established under Chapter 303, Labor Code, unless the business and the college file an application for concurrent participation in both programs.

(b) The Texas Workforce Commission and the governing board by rule shall jointly establish the requirements for an application subject to this section.

SECTION 1.08. Section 481.157(b), Government Code, is amended to read as follows:

(b) The governing [policy] board may adopt rules modifying the requirements of Subsection (a) for employers that are small businesses or micro-businesses [with fewer than 50 employees] and may also adopt rules modifying the requirements of Subsection (a) for projects that provide significant economic benefits to an entire region of the state.

SECTION 1.09. Section 481.159, Government Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) The executive director may approve any project that meets the requirements of this subchapter. If [the executive director approves] a project is approved and funds are available, the department shall enter into a contract with the grant applicant and with each employer participating in the project. The contract must specify those skills and competencies to be gained as a result of the project.

(c) Each contract must provide a schedule for payment of smart jobs fund money. Twenty-five percent of allowable expenditures shall be withheld by the department for 90 days after the date of completion of the contract. If at least 85 percent of the trainees in the project have been retained in employment for that 90-day period, other than trainees who leave the employment voluntarily for better-paying jobs, and have successfully achieved the skills and competencies, wage requirements, and other contractual obligations, the amount of allowable expenditures withheld shall be remitted to the employer. The governing board by rule shall establish procedures as necessary to verify that a trainee has left the employment for a better-paying job. 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.

(d) Each contract must state the term of the grant award. A grant recipient who does not use all money awarded under the grant for the prescribed purpose within the allotted term shall reimburse the program by submitting the appropriate amount to the executive director not later than the 30th day after the expiration date of the term of the grant award. The executive director shall remit money received under this subsection to the comptroller for deposit in the smart jobs rainy day fund.

SECTION 1.10. Section 481.160, Government Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) The annual report must include for that fiscal year:

(1) the total number of applications submitted, the total number of applications approved, and the total number of applications rejected, reported by region of the state and by size of business;

(2) the number of employers receiving grants under the program reported by region of the state and the percentage that number represents of the total number of employers receiving grants under the program on a statewide basis;

(3) ~~(2)~~ the total amount of money ~~[grants]~~ awarded in each region of the state and the percentage that amount represents of the total amount of money awarded on a statewide basis;

(4) a comparison of the percentage of total dollars awarded to each region versus each region's percentage of:

(A) the state's population;

(B) the civilian labor force;

(C) the number of unemployed persons; and

(D) the number of eligible grant applications for qualified jobs submitted to the department;

(5) ~~(3)~~ the value, expressed in dollars and as a percentage of total training expenditures, of matching contributions made by employers;

(6) ~~(4)~~ the number of ~~small~~ businesses, classified by micro-businesses, small businesses, medium businesses, and large businesses [as defined by Section 481.101(3)], that receive grants under the program reported by region of the state and business size and the percentage that number represents of the total number of each of those categories of businesses receiving grants under the program on a statewide basis;

(7) ~~and~~ the total amount of money ~~[the grants]~~ awarded to micro-businesses, small businesses, medium businesses, and large businesses, reported by region of the state and business size, and the percentage that amount represents of the total amount of money awarded to those businesses on a statewide basis;

(8) ~~(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;

~~(9) [(6) the geographical distribution of employers receiving grants under the program;~~

~~(7)~~ the total number of jobs created, enhanced, or retained under the program;

(A) ~~[reported]~~ by region of the state;

(B) ~~and~~ by occupation, classified by the applicable two-digit standard industrial classification;

(C) by wage level; and

(D) whether attributable to:

(i) relocation of businesses to this state, including the percentage the number attributable to the relocation of businesses represents of the total number of jobs created, enhanced, or retained under the program on a statewide basis; or

(ii) training or retraining of employees of existing

employers, including the percentage that the number attributable to the training or retraining of employees of existing employers represents of the total number of jobs created, enhanced, or retained under the program on a statewide basis;

(10) [(8)] the average and median weekly wage levels of trainees entering or returning to the workforce, broken down by current employees undergoing retraining and new hires, at three months and one year after the conclusion of their training;

(11) [(9)] the number and percentage of participating employers that provide workers' compensation insurance coverage and the number and percentage of employees covered;

(12) [(10) the number and percentage of participating employers that offer health care insurance coverage and] the number and percentage of employees covered by the group health benefit plan offered by the employer;

(13) [(11)] the number and percentage of women, disabled persons, [employers] and minority group members [employers] receiving grants under the program as employers, participating as trainees in training projects, or participating in the program as providers [and the total amount of the grants awarded], broken out by group;

(14) a list of modifications granted under Section 481.155(e), the name of the project for which the modification was granted, and the reason the executive director granted the modification [(12) the number and percentage of women, minority group members, and disabled individuals participating as trainees in training projects, broken out by group]; and

(15) the number of trainees who have left employment with a grant recipient because the trainee has obtained a better-paying job, as verified under Section 481.159(c) [(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].

(c) In addition to the information required under Subsection (b), the department shall include in the annual report, for each region of the state in which a grant is awarded, the percentage paid by employers in that region of the total amount of unemployment insurance contributions paid by employers during the preceding calendar year.

SECTION 1.11. Section 481.161, Government Code, is amended to read as follows:

Sec. 481.161. EXPIRATION. This subchapter expires December 31, 2001 [~~1999~~].

ARTICLE 2. SKILLS DEVELOPMENT FUND

SECTION 2.01. Section 303.003(a), Labor Code, is amended to read as follows:

(a) To achieve the purposes of this chapter, the skills development fund is created. The fund is composed of:

(1) money transferred into the fund under Section 204.123; and

(2) any amounts appropriated by the legislature for the purpose of this chapter from [money in] the general revenue fund.

SECTION 2.02. Chapter 303, Labor Code, is amended by adding Sections 303.005 and 303.006 to read as follows:

Sec. 303.005. PARTICIPATION IN ADDITIONAL PROGRAMS; APPLICATION REQUIREMENTS. An employer may not apply both to a public community or technical college for customized training and assessment from the college through a grant issued to the college under the skills development fund program established under this chapter and for a grant under the smart jobs fund program established under Subchapter J, Chapter 481, Government Code, unless the employer and the college file an application for concurrent participation in both programs that complies with Section 481.1565, Government Code.

Sec. 303.006. REPORTING REQUIREMENTS. (a) In this section:

(1) "Employee" means an individual who performs services for another under a contract of hire, whether express or implied, or oral or written.

(2) "Employer" means a person that employs one or more employees.

(3) "Existing employer" means an employer that:

(A) has been liable to pay contributions under Subtitle A, Title 4, for more than one year;

(B) has employees; and

(C) is in compliance with the reporting and payment requirements of Subtitle A, Title 4, as determined by the Texas Workforce Commission.

(4) "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.

(5) "Job" means employment on a basis customarily considered full-time for the applicable occupation and industry.

(6) "Large employer" means a business entity that employs at least 500 employees.

(7) "Medium employer" means a business entity that employs more than 99 but fewer than 500 employees.

(8) "Micro-employer" means a business entity that employs not more than 20 employees.

(9) "Program" means the skills development fund program created under this chapter.

(10) "Small employer" means a business entity that employs more than 20 but fewer than 100 employees.

(11) "Trainee" means a participant in a project funded under this chapter.

(12) "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.

(b) In implementing provisions under this section regarding the classification of this state into regions, the executive director shall use the uniform service regions established by the comptroller under Section 120, Article V, Chapter 19, Acts of the 72nd Legislature, 1st Called Session, 1991 (the General Appropriations Act).

(c) The executive director shall report to the governor and the legislature at the end of each fiscal year the status of the program established under this chapter.

(d) The annual report must include for that fiscal year:

(1) the total number of applications submitted, the total number of applications approved, and the total number of applications rejected by region of the state;

(2) the average and median weekly wage levels of trainees under this chapter entering or returning to the workforce, broken down by:

(A) current employees undergoing retraining;

(B) new hires; and

(C) region of the state;

(3) the average and median weekly wage levels of trainees under this chapter entering or returning to the workforce, broken down by region of the state;

(4) the number and percentage of trainees covered by health care insurance coverage, workers' compensation insurance coverage, and other analogous benefit programs;

(5) the total amount of money awarded in each region of the state and the percentage that amount represents of the total amount of money awarded on a statewide basis;

(6) a comparison of the percentage of total dollars awarded to each region versus each region's percentage of:

(A) the state's population;

(B) the civilian labor force;

(C) the number of unemployed persons; and

(D) the number of qualified grant applications submitted to the commission by public community and technical colleges;

(7) the total amount of money awarded to micro-employers, small employers, medium employers, and large employers, reported by region of the state; and

(8) the total number of jobs created or persons retrained under the program:

(A) by region of the state;

(B) by occupation classified by the two-digit standard industrial classification;

(C) by wage level; and

(D) whether attributable to:

(i) relocation of businesses to this state; or

(ii) training or retraining of employees of existing employers.

ARTICLE 3. STUDY OF WORKFORCE PROGRAMS BY COMPTROLLER

SECTION 3.01. Chapter 403, Government Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. STUDY OF CERTAIN WORKFORCE DEVELOPMENT PROGRAMS

Sec. 403.351. PERFORMANCE EVALUATION. (a) The comptroller shall perform a biennial performance evaluation of:

(1) the smart jobs fund program established under Subchapter J, Chapter 481; and

(2) the skills development fund program established under Chapter 303, Labor Code.

(b) The evaluation must include:

(1) an analysis of the wage levels of trainees one year and three years after the end of the trainees' participation in the programs;

(2) information relating to the number of trainees employed in the same field after one year and three years;

(3) a survey and analysis of program satisfaction from former grant recipients;

(4) a description of the overall impact of the programs on economic development in this state in general and on economically distressed areas of this state in particular; and

(5) any additional information determined to be necessary by the comptroller to analyze the performance and impact of the programs.

(c) In performing the evaluation required by this section, the comptroller shall also analyze the efficiency of the programs subject to this section and the use of administrative funds by those programs.

(d) The Texas Department of Economic Development, the Texas Workforce Commission, and the State Occupational Information Coordinating Committee shall cooperate with the comptroller in implementing this section.

ARTICLE 4. CONFORMING AMENDMENTS

SECTION 4.01. Section 204.0065, Labor Code, is amended to read as follows:

Sec. 204.0065. TEMPORARY INITIAL CONTRIBUTION RATE. Notwithstanding Section 204.006, on and after January 1, 1994, a person's contribution rate shall be two and six-tenths percent until the date the experience rate computed under Section 204.041 takes effect for the employer. This section expires December 31, 2001 [+999].

SECTION 4.02. Section 204.0625, Labor Code, is amended to read as follows:

Sec. 204.0625. TEMPORARY ADJUSTMENT TO REPLENISHMENT TAX RATE. On and after January 1, 1994, the replenishment tax rate computed under Section 204.062 shall be adjusted to a rate computed by subtracting 0.1 from the quotient computed under Section 204.062(a). This section expires December 31, 2001 [+999].

SECTION 4.03. Section 204.123, Labor Code, is amended to read as follows:

Sec. 204.123. TRANSFER TO SMART JOBS FUNDS, SKILLS DEVELOPMENT FUND, AND COMPENSATION FUND. (a) If, on September 1 of a year, the commission determines that the amount in the compensation fund will exceed 100 percent of its floor as computed under Section 204.061 on the next October 1 computation date, the commission shall transfer from [~~the amount in~~] the holding fund created under Section 204.122;

(1) 50 percent of the amount in the holding fund to the smart jobs fund created under Section 481.154(a) [~~481.154~~], Government Code;

(2) 30 percent of the amount in the holding fund to the skills development fund created under Section 303.003; and

(3) 20 percent of the amount in the holding fund to the smart jobs rainy day fund created under Section 481.154(d), Government Code.

(b) If, on September 1 of a year, the commission determines that the

amount in the compensation fund will be at or below 100 percent of its floor as computed under Section 204.061 on the next October 1 computation date, the commission shall transfer to the compensation fund as much of the amount in the holding fund as is necessary to raise the amount in the compensation fund to 100 percent of its floor, up to and including the entire amount in the holding fund. The commission shall transfer any remaining balance in the holding fund to the smart jobs fund, the skills development fund, and the smart jobs rainy day fund in the percentages prescribed by Subsection (a) [created under Section 481.154, Government Code].

(c) Notwithstanding Subsection (a), if, on September 1, 1999, the commission determines that the amount in the compensation fund will exceed 100 percent of its floor as computed under Section 204.061 on the next October 1 computation date, the commission shall transfer from the holding fund created under Section 204.122:

(1) 14 percent of the amount in the holding fund to the smart jobs fund created under Section 481.154(a), Government Code;

(2) 66 percent of the amount in the holding fund to the skills development fund created under Section 303.003; and

(3) 20 percent of the amount in the holding fund to the smart jobs rainy day fund created under Section 481.154(d), Government Code.

(d) Subsection (c) and this subsection expire October 2, 1999.

SECTION 4.04. Section 204.124, Labor Code, is amended to read as follows:

Sec. 204.124. EXPIRATION. This subchapter expires December 31, 2001 [~~1999~~].

ARTICLE 5. TRANSITION; EFFECTIVE DATE; EMERGENCY

SECTION 5.01. Section 481.155, Government Code, as amended by this Act, applies only to a grant awarded by the Texas Department of Economic Development on or after January 1, 2000. A grant awarded before that date is governed by the law in effect immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 5.02. Section 481.159(d), Government Code, as added by this Act, applies to reimbursement by an employer of money awarded under a grant awarded before, on, or after September 1, 1999.

SECTION 5.03. This Act takes effect September 1, 1999.

SECTION 5.04. 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.

Senate Amendment No. 1

Amend **CSHB 3657** in Sec. 481.152(b), Government, as amended by SECTION 1.02 of the bill, (page 3, line 17, committee printing) by inserting after the period "At least 20 percent shall be used for employers that relocate operations to this state."

Senate Amendment No. 2

Amend **CSHB 3657** in SECTION 1.05 of the bill, in amended Section 481.155, Government Code (page 6, between lines 3 and 4, senate committee report printing), by inserting the following new subsection:

(i) Notwithstanding Subsection (d) of this section or any other provision of this subchapter, a grant awarded under this section for a job training project is exempt from the requirement that a job under the project pay at least 100 percent of the county average weekly wage for the county in which the job or project is located if the grant application was filed before September 1, 1999, and the application is for training for 1,000 or more technology-related jobs, the training is to begin not later than June 1, 2000, and all training is to be completed not later than August 31, 2001. This subsection expires September 1, 2001.

HJR 4 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Kuempel called up with senate amendments for consideration at this time,

HJR 4, A joint resolution proposing a constitutional amendment to authorize the exemption of property owned by institutions of public charity, as defined by general law, from ad valorem taxation.

On motion of Representative Kuempel, the house concurred in the senate amendments to **HJR 4** by (Record 503): 141 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough.

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

Absent, Excused — Corte; Crownover; Jones, D.; Smithee.

Absent — Mowery; Zbranek.

Senate Amendment No. 1

Amend **HJR 4** as follows:

(1) In SECTION 1 of the joint resolution, amended Section 2(a), Article VIII, Texas Constitution (on page 1, line 39, Senate Committee Printing),

strike "institutions of [~~purely~~] public charity as defined by general law", and substitute "institutions engaged primarily in public charitable functions, which may conduct auxiliary activities to support those charitable functions [~~of purely public charity~~]".

(2) In SECTION 3 of the joint resolution, in the temporary provision proposed to be added to Article VIII, Texas Constitution (on page 2, lines 3 and 4, Senate Committee Printing), strike "institutions of public charity as defined by the general law" and substitute "institutions engaged primarily in public charitable functions".

(3) In SECTION 4 of the joint resolution, in the language to be printed in the ballot proposition (on page 2, lines 11 and 12, Senate Committee Printing), strike "institutions of public charity, as defined by the legislature", and substitute "institutions engaged primarily in public charitable functions".

HJR 62 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Mowery called up with senate amendments for consideration at this time,

HJR 62, A joint resolution proposing a constitutional amendment to eliminate duplicative, executed, obsolete, archaic, and ineffective constitutional provisions.

On motion of Representative Mowery, the house concurred in the senate amendments to **HJR 62** by (Record 504): 142 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Gray; Green; Greenberg; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Corte; Crownover; Jones, D.; Smithee.

Absent — Grusendorf; Marchant.

Senate Amendment No. 1

Amend **HJR 62** in SECTION 18 (on page 53, line 17, House Engrossment) between "students" and the period "." insert "who have been admitted to attend an institution of higher education within the State of Texas, public or private, which is recognized or accredited under terms and conditions prescribed by the Legislature".

Senate Amendment No. 2

Amend **HJR 62**, in SECTION 49 (page 84, line 27, House Engrossment), by striking "the [~~When a~~] Railroad Commission [~~is created by law it~~]" and substituting "When a Railroad Commission is created by law it".

Senate Amendment No. 3

Amend **HJR 62** as follows:

- (1) On page 8, line 25, after "creating", delete "a fund to be known as".
- (2) On page 8, line 26, after "Fund", insert: " , Veterans' Housing Assistance Fund, and Veterans' Housing Assistance Fund II."
- (3) Strike page 9, lines 22 through 25. Renumber remaining subsections accordingly.

**HB 1193 - HOUSE DISCHARGES CONFEREES
HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Telford called up with senate amendments for consideration at this time,

HB 1193, A bill to be entitled An Act relating to the licensing and regulation of manufactured housing.

Representative Telford moved to discharge the conferees and concur in the senate amendments to **HB 1193**.

The motion prevailed without objection.

Senate Amendment No. 1 (Senate Committee Amendment No. 1)

Amend **HB 1193** as follows:

1. On page 5, line 24, add a new SECTION 5 as follows:
SECTION 5. Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes) is amended by adding a new Section 6A to read as follows and renumber subsequent Sections accordingly:

Section 6A. LAND-HOME REGULATIONS. (a) This section is applicable to those transactions in which the manufactured home will be sold as personal property and titled under Section 19 of this act. It does not apply to real estate transactions when the manufactured home is, or will become, real estate under Section 2.001, Property Code.

(b) The retailer is prohibited from selling, or representing for sale, or offering for sale any real estate in conjunction with the sale of a manufactured home except as may be authorized by the department consistent with the provisions of the Real Estate License Act (Article 6573a, Vernon's Texas Civil Statutes).

2. On page 6, strike lines 21-22 and substitute;

~~"[installers] that is conducted [in the field by a private institution or other person] by a non-profit educational institution or foundation."~~

3. On page 5, strike lines 9-11 and substitute the following:

"SECTION 4. Section 6, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), is amended by amending subsections (h) and (l) and adding subsection (m) to read as follows:

4. On page 5, after line 24, add new subsection (m) to read as follows:

(m) It is unlawful for a retailer, salesperson, or agent of the retailer to refuse to refund a consumer's deposit except in accordance with this subsection.

(1) The deposit must be refunded within 15 days following the receipt of written notice from the consumer requesting the refund.

(2) If a retailer, salesperson, or agent of the retailer violates the provisions of this subsection, the consumer may recover, cumulative of other remedies, three times the amount of the deposit plus reasonable attorney's fees.

(3) The consumer's deposit may only be retained if:

(A) the creditor specially orders a home from the manufacturer because the home is not in the retailer's inventory;

(B) the home conforms to the specifications of the special order and the representations, if any, made to the consumer;

(C) the consumer fails or refuses to accept delivery and installation of the home by the retailer; and

(D) the consumer was given conspicuous written notice of the requirements for retaining the deposit.

(4) The retailer must not retain more than five percent of the estimated cash price of the home which is specially ordered and must refund any amount of the deposit which exceeds five percent.

(5) This subsection does not apply to a deposit in escrow in a real estate transaction nor to a down payment as shown on an executed retail installment sales contract.

5. Sections 347.303, 347.304, 347.305, and 347.306, Finance Code, are repealed.

6. Beginning on page 4, line 13 through page 5, line 8, strike all of "SECTION 3."

7. Renumber subsequent SECTIONS accordingly

8. Add a new appropriately numbered Section to read as follows and renumber remaining Sections accordingly:

SECTION ____ . EFFECTIVE DATE. This Act takes effect September 1, 1999, except for Section 5 which takes effect January 1, 2000.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Telford requested permission for the Committee on Calendars to meet while the house is in session.

Permission to meet was granted without objection.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Calendars, 4:30 p.m. today, speakers committee room.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 33).

HOUSE AT EASE

At 4:09 p.m., the speaker announced that the house would stand at ease.

The speaker called the house to order at 4:45 p.m.

HB 673 - CONFERENCE COMMITTEE APPOINTED

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 673**: Carter, chair, Luna, Danburg, Naishtat, and Ehrhardt.

**HB 143 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Thompson called up with senate amendments for consideration at this time,

HB 143, A bill to be entitled An Act relating to the personal needs allowance for certain Medicaid recipients who are residents of long-term care facilities.

Representative Thompson moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 143**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 143**: Thompson, chair, Junell, Chavez, Maxey, and Naishtat.

**HB 1603 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Thompson called up with senate amendments for consideration at this time,

HB 1603, A bill to be entitled An Act relating to the deferred disposition of certain misdemeanor offenses.

Representative Thompson moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1603**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1603**: Thompson, chair, Hartnett, Capelo, Uresti, and Hinojosa.

**HB 2997 - HOUSE DISCHARGES CONFEREES
HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Culberson called up with senate amendments for consideration at this time,

HB 2997, A bill to be entitled An Act relating to the recognition of certain symbols of the State of Texas and to the designation of various recognition days.

Representative Culberson moved to discharge the conferees and concur in the senate amendments to **HB 2997**.

The motion prevailed without objection.

Senate Amendment No. 1

Amend **HB 2997** as follows:

In SECTION 2 of the bill, in Subsection (b), Article 6139b, Revised Statutes, strike "Individuals who are not citizens of this state should remain silent and stand at attention." (SENATE COMMITTEE REPORT, page 1, lines 27 and 28)

Strike SECTION 4 in its entirety (SENATE COMMITTEE REPORT, page 1, line 46 through page 2, line 13) and renumber the remaining sections accordingly.

Strike SECTION 9 in its entirety (SENATE COMMITTEE REPORT, page 2, lines 32-68) and renumber the remaining sections accordingly.

Senate Amendment No. 2

Amend SECTION 9 of **HB 2997** to add proposed Section 662.050.

Sec. 622.050. STATE OF TEXAS ANNIVERSARY REMEMBRANCE DAY (STAR DAY). (a) February 19 is State of Texas Anniversary Remembrance Day (STAR Day) in honor of Texas joining the Union and the day that James Pinckney Henderson became the first governor of the State of Texas in 1846.

(b) State of Texas Anniversary Remembrance Day (STAR Day) shall be regularly observed by appropriate and patriotic programs in the public schools and other places to properly commemorate the annexation of this state and to inspire a greater appreciation for the history of this state.

HB 676 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Isett submitted the following conference committee report on **HB 676**:

Austin, Texas, May 26, 1999

Honorable Rick Perry
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 676** have met

and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Bivins	Isett
Bernsen	Alexander
Cain	Edwards
Ogden	Hawley
Shapiro	Noriega
On the part of the Senate	On the part of the House

HB 676, A bill to be entitled An Act relating to prima facie speed limits for vehicles on highways and beaches.

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

SECTION 1. Section 545.352(b), Transportation Code, is amended to read as follows:

(b) Unless a special hazard exists that requires a slower speed for compliance with Section 545.351(b), the following speeds are lawful:

(1) 30 miles per hour in an urban district on a street other than an alley and 15 miles per hour in an alley;

(2) 70 miles per hour in daytime and 65 miles per hour in nighttime if the vehicle is [~~a passenger car, motorcycle, passenger car or light truck towing a trailer bearing a vessel, as defined by Section 31.003, Parks and Wildlife Code, that is less than 26 feet in length, or passenger car or light truck towing a trailer or semitrailer designed and used primarily to transport livestock,~~] on a highway numbered by this state or the United States outside an urban district, including a farm-to-market or ranch-to-market road, except as provided by Subdivision (4);

(3) 60 miles per hour in daytime and 55 miles per hour in nighttime if the vehicle is [~~a passenger car or motorcycle~~] on a highway that is outside an urban district and not a highway numbered by this state or the United States;

(4) [~~60 miles per hour outside an urban district if a speed limit for the vehicle is not otherwise specified by this section; or~~

~~[(5)]~~ outside an urban district:

(A) 50 miles per hour if the vehicle is a school bus on a highway other than an interstate highway;

(B) 55 miles per hour if the vehicle is a school bus on an interstate highway; or

(C) 60 miles per hour in daytime and 55 miles per hour in nighttime if:

(i) the vehicle is a truck, other than a light truck, or if the vehicle is a truck tractor, trailer, or semitrailer; and

(ii) the vehicle is on a farm-to-market or ranch-to-market road;

(5) on a beach, 15 miles per hour; or

(6) on a county road adjacent to a public beach, 15 miles per hour, if declared by the commissioners court of the county[, or a vehicle towing a trailer, semitrailer, another motor vehicle or towable recreational vehicle].

SECTION 2. Section 545.3535, Transportation Code, is amended to read as follows:

Sec. 545.3535. AUTHORITY OF TEXAS TRANSPORTATION COMMISSION TO ALTER SPEED LIMITS ON CERTAIN ROADS. (a) The commissioners court of a county by resolution may request the Texas Transportation Commission to determine and declare a reasonable and safe prima facie speed limit that is lower than a speed limit established by Section 545.352 on any part of a farm-to-market or a ranch-to-market road of the highway system that is located in that county and is without improved shoulders [~~has a pavement width of 20 feet or less~~].

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

[~~(1) the request of the commissioners court; and~~

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

(c) [~~(e)~~] The commission shall give consideration to local public opinion and may [~~elect to~~] determine and declare a lower speed limit on any part of the road without an engineering and traffic investigation, but the commission must use sound and generally accepted traffic engineering practices in determining and declaring the lower speed limit.

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

SECTION 3. Section 545.364, Transportation Code, is repealed.

SECTION 4. This Act takes effect September 1, 1999.

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 Isett moved to adopt the conference committee report on **HB 676**.

The motion prevailed without objection.

HB 1592 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Junell submitted the following conference committee report on **HB 1592**:

Austin, Texas, May 26, 1999

Honorable Rick Perry
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 1592** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Duncan
Armbrister

Junell
B. Turner

Ratliff	Swinford
Haywood	Crownover
Lucio	B. Brown
On the part of the Senate	On the part of the House

HB 1592, A bill to be entitled An Act relating to the state's share of the costs under the brush control cost-share program.

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

SECTION 1. Section 203.154(a), Agriculture Code, is amended to read as follows:

(a) Not more than 80 [~~70~~] percent of the total cost of a single brush control project may be made available as the state's share in cost sharing.

SECTION 2. This Act takes effect September 1, 1999.

SECTION 3. The change in law made by this Act applies only to a brush control project approved for funding under Chapter 203, Agriculture Code, as amended by this Act, on or after the effective date of this Act. A brush control project approved for funding under Chapter 203, Agriculture Code, before the effective date of this Act is covered by the law in effect when the project was approved for funding, and the former law is continued in effect for that purpose.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Representative Junell moved to adopt the conference committee report on **HB 1592**.

The motion prevailed without objection.

SB 1207 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative McCall submitted the conference committee report on **SB 1207**.

Representative McCall moved to adopt the conference committee report on **SB 1207**.

The motion prevailed without objection.

SJR 12 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hochberg submitted the conference committee report on **SJR 12**.

Representative Hochberg moved to adopt the conference committee report on **SJR 12**.

A record vote was requested.

The motion prevailed by (Record 505): 144 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum;

Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Cuellar; Culbertson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbraneck.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Crownover; Jones, D.; Smithee.

Absent — Alvarado.

HB 2085 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative McCall submitted the following conference committee report on **HB 2085**:

Austin, Texas, May 20, 1999

Honorable Rick Perry
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 2085** 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	McCall
Madla	Gray
Bernsen	Bosse
Nelson	Glaze
Lindsay	Hilderbran
On the part of the Senate	On the part of the House

HB 2085, A bill to be entitled An Act relating to the continuation and functions of the Texas Board of Health and Texas Department of Health, including the operation of certain boards and councils administratively attached to the department; providing penalties.

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

ARTICLE 1. GENERAL OPERATIONS AND ADMINISTRATION
OF THE TEXAS BOARD AND DEPARTMENT OF HEALTH

SECTION 1.01. Section 2003.021, Government Code, is amended by adding Subsection (e) to read as follows:

(e) The office shall conduct all hearings in contested cases under Chapter 2001 that are before the commissioner of public health or the Texas Board of Health or Texas Department of Health.

SECTION 1.02. Section 11.003, Health and Safety Code, is amended to read as follows:

Sec. 11.003. SUNSET PROVISION. The Texas Board of Health and the Texas Department of Health are subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board and the department are abolished and this chapter expires September 1, 2011 [~~1999~~].

SECTION 1.03. Chapter 11, Health and Safety Code, is amended by adding Section 11.0045 to read as follows:

Sec. 11.0045. COMPREHENSIVE STRATEGIC AND OPERATIONAL PLAN. (a) The board shall develop, publish, and to the extent allowed by law implement a comprehensive strategic and operational plan.

(b) The board shall publish the plan not later than September 1 of each even-numbered year. The board shall at a minimum:

(1) make the plan available on its generally accessible Internet site;

(2) make printed copies of the plan available on request to members of the public; and

(3) send printed copies of the plan to the governor, the lieutenant governor, the speaker of the house of representatives, the Legislative Budget Board, and the committees of the senate and the house of representatives that have oversight responsibilities regarding the board and the department.

(c) The plan at a minimum must include:

(1) a statement of the aim and purpose of each of the department's missions, including:

(A) the prevention of disease;

(B) the promotion of health;

(C) indigent health care;

(D) the protection of parents' fundamental right to direct the health care and general upbringing of their children;

(E) acute care services for which the department is responsible;

(F) health care facility regulation for which the department is responsible;

(G) the licensing of health professions for which the department is responsible; and

(H) all other health-related services for which the department is responsible under law;

(2) an analysis regarding how each of the department's missions relate to other department missions;

(3) a detailed analysis of how to integrate or continue to integrate department programs with other department programs, including the integration of information gathering and information management within and across programs, for the purpose of minimizing duplication of effort, increasing administrative efficiency, simplifying access to department programs, and more efficiently meeting the health needs of this state;

(4) a detailed proposal to integrate or continue to integrate department programs with other department programs during the two-year period covered by the plan, to the extent allowed by law and in accordance with the department's analysis;

(5) a determination regarding whether it is necessary to collect each type of information that the department collects, and for each type of information that it is necessary for the department to collect, whether the department is efficiently and effectively collecting, analyzing, and disseminating the information and protecting the privacy of individuals;

(6) an assessment of services provided by the department that evaluates the need for the department to provide those services in the future;

(7) a method for soliciting the advice and opinions of local health departments, hospital districts, and other public health entities, of recipients and providers of services that are related to the department's missions, and of advocates for recipients or providers for the purpose of identifying and assessing:

(A) the health-related needs of the state;

(B) ways in which the department's programs and information services can be better integrated and coordinated; and

(C) factors that the department should consider before adopting rules that affect recipients or providers of services that are related to the department's missions;

(8) a comprehensive inventory of health-related information resources that meet department criteria for usefulness and applicability to local health departments, to recipients or providers of services that are related to the department's missions, and to nonprofit entities, private businesses, and community groups with missions that are related to health;

(9) a statement regarding the ways in which the department will coordinate or attempt to coordinate with federal, state, local, and private programs that provide services similar to the services provided by the department;

(10) a list of other plans that the department is required to prepare under state law and a recommendation regarding which plans are obsolete or duplicate other required department plans; and

(11) an assessment of the extent to which previous plans prepared by the department under this section have effectively helped the department to identify and achieve its objectives, to improve its operations, or to guide persons who need to identify department services, identify department requirements, or communicate effectively with department personnel.

SECTION 1.04. Chapter 11, Health and Safety Code, is amended by adding Section 11.0055 to read as follows:

Sec. 11.0055. REQUIRED BOARD MEMBER TRAINING. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

- (1) the legislation that created the department and the board;
- (2) the programs operated by the department;
- (3) the role and functions of the department;
- (4) the rules of the department, with an emphasis on the rules that relate to disciplinary and investigatory authority;
- (5) the current budget for the department;
- (6) the results of the most recent formal audit of the department;
- (7) the requirements of:
 - (A) the open meetings law, Chapter 551, Government Code;
 - (B) the public information law, Chapter 552, Government Code;
 - (C) the administrative procedure law, Chapter 2001, Government Code; and
 - (D) other laws relating to public officials, including conflict-of-interest laws; and
- (8) any applicable ethics policies adopted by the department or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 1.05. Section 11.006(a), Health and Safety Code, is amended to read as follows:

(a) A person is not eligible for appointment as a public member of the board if the person or the person's spouse:

- (1) is employed by or participates in the management of a business entity or other organization regulated by the department or receiving funds from the department;
- (2) is registered, certified, or licensed by the department or by a regulatory board or other agency that is under the jurisdiction of the department or administratively attached to the department;
- (3) owns, controls, or has, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by the department or receiving funds from the department; or
- (4) [~~(3)~~] uses or receives a substantial amount of tangible goods, services, or funds from the department other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

SECTION 1.06. Section 11.009(c), Health and Safety Code, is amended to read as follows:

(c) If the commissioner has knowledge that a potential ground for removal exists, the commissioner shall notify the chairman of the board of the ground. The chairman shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the chairman, the commissioner shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

SECTION 1.07. Section 11.018(d), Health and Safety Code, is amended

to read as follows:

(d) The department shall keep an information file about each complaint filed with the department relating to[:

~~(1)~~ a license holder or entity regulated by the department[;] or

~~(2)~~ a service delivered by the department. The file must include:

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

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

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the department closed the file without taking action other than to investigate the complaint.

SECTION 1.08. Subchapter A, Chapter 12, Health and Safety Code, is amended by adding Sections 12.004 and 12.005 to read as follows:

Sec. 12.004. DEVELOPMENT OF PROPOSED RULES. (a) This section applies to the process by which the department develops proposed rules for the board's consideration before the proposed rules are published in the Texas Register and before the board, commissioner, or department complies with the rulemaking requirements of the administrative procedure law, Chapter 2001, Government Code. This section does not affect the duty of the board, commissioner, or department to comply with the rulemaking requirements of that law.

(b) The board shall require the department to establish a checklist of methods that, to the extent appropriate, the department will follow to obtain early in the rule development process the advice and opinions of the public and of persons who will be most affected by a proposed rule. The checklist must include methods for identifying persons who will be most affected and for soliciting at a minimum the advice and opinions of affected local health departments, of recipients and providers of affected services, and of advocates for affected recipients or providers.

(c) The checklist may include negotiated rulemaking, informal conferences, advisory committees, and any other appropriate method.

(d) A rule adopted by the board may not be challenged on the grounds that the board, commissioner, or department did not comply with this section. If the department was unable to solicit a significant amount of advice and opinion from the public or from affected persons early in the rule development process, the department shall state in writing to the board the reasons why the department was unable to do so.

Sec. 12.005. MEDICAL DIRECTOR: MEDICAID MANAGED CARE AND CHIPS PROGRAMS. (a) In addition to any other medical director employed by the department, the board shall require the department to employ a separate medical director whose duties consist of acting as the medical director for the children's health insurance program created under Title XXI of the Social Security Act (42 U.S.C. Section 1397aa et seq.) and also as the medical director for the Medicaid managed care program, to the extent that those programs are administered by the department.

(b) The medical director shall be primarily responsible for implementing

and maintaining policies and systems for the programs that relate to clinical and professional medical issues, including clinical oversight.

(c) The medical director must be a physician licensed to practice medicine in this state.

SECTION 1.09. Subchapter B, Chapter 12, Health and Safety Code, is amended by adding Section 12.0115 to read as follows:

Sec. 12.0115. INTEGRATION OF HEALTH CARE DELIVERY PROGRAMS. (a) In this section, "health care delivery programs" includes the department's primary health care services program, its program to improve maternal and infant health, its services for chronically ill and disabled children, any aspects of health care delivery under the state Medicaid program assigned to the department by law or by the Health and Human Services Commission, and the part of any other department program concerned with the department's responsibility for the delivery of health care services.

(b) The department shall integrate the functions of its different health care delivery programs to the maximum extent possible, including integrating the functions of health care delivery programs that are part of the state Medicaid program with functions of health care delivery programs that are not part of the state Medicaid program.

(c) At a minimum, the department's integration of the functions of its different health care delivery programs must include the integration within and across the programs of:

(1) the development of health care policy;

(2) the delivery of health care services, to the extent appropriate for the recipients of the health care services; and

(3) to the extent possible, the administration of contracts with providers of health care services, particularly providers who concurrently provide health care services under more than one contract or program with the department.

(d) One of the primary goals of the department in integrating the delivery of health care services for the benefit of recipients shall be providing for continuity of care for individuals and families, accomplished to the extent possible by providing an individual or family with a medical home that serves as the primary initial health care provider.

(e) One of the primary goals of the department in integrating the administration of its contracts with providers of health care services shall be designing an integrated contract administration system that reduces the administrative and paperwork burden on providers while still providing the department with the information it needs to effectively administer the contracts. The department's integration of contract administration must include:

(1) the integration of the initial procurement process within and across programs, at least in part by efficiently combining requests for bids or proposals within or across programs to the extent it reduces the administrative burden for providers;

(2) the establishment of uniform contract terms, including:

(A) contract terms that require information from providers, or that prescribe performance standards for providers, that could be made uniform

within or across programs while remaining effective as contract terms;

(B) the establishment of a procedure under which a contractor or a person responding to a request for bids or proposals may supply the department with requested information whenever possible by referencing current and correct information previously supplied to and on file with the department; and

(C) contract terms regarding incentives for contractors to meet or exceed contract requirements;

(3) the integration of contract monitoring, particularly with regard to monitoring providers that deliver health services for the department under more than one contract or under more than one department program; and

(4) the integration of reimbursement methods;

(A) particularly for a provider that delivers health services for the department under more than one contract or under more than one department program; and

(B) including the application across programs of the most effective and efficient reimbursement technologies or methods that are available to the department under any of its programs.

(f) The department shall examine the extent to which the department could integrate all or part of its health care delivery programs into a single delivery system.

(g) If a federal requirement that the federal government may waive restricts the department's integration efforts under this section, the department may seek a waiver of the requirement from the federal government. If the waiver affects a program for which another state agency is designated the single state agency for federal purposes, the department shall request the single state agency to seek the waiver.

(h) The department may not integrate health care delivery programs under this section in a way that affects the single state agency status of another state agency for federal purposes without obtaining the approval of the Health and Human Services Commission and any necessary federal approval.

SECTION 1.10. Subchapter B, Chapter 12, Health and Safety Code, is amended by adding Sections 12.0123 and 12.0124 to read as follows:

Sec. 12.0123. EXTERNAL AUDITS OF CERTAIN MEDICAID CONTRACTORS BASED ON RISK. (a) In this section, "Medicaid contractor" means an entity that:

(1) is not a health and human services agency as defined by Section 531.001, Government Code; and

(2) under a contract with or otherwise on behalf of the department, performs one or more administrative services in relation to the department's operation of a part of the state Medicaid program, such as claims processing, utilization review, client enrollment, provider enrollment, quality monitoring, or payment of claims.

(b) The department shall contract with an independent auditor to perform independent external financial and performance audits of any Medicaid contractor used by the department in the department's operation of a part of the state Medicaid program. The department regularly shall review its Medicaid contracts and ensure that:

(1) the frequency and extent of audits of a Medicaid contractor under this section are based on the amount of risk to the state involved in the administrative services being performed by the contractor;

(2) audit procedures related to financial audits and performance audits are used consistently in audits under this section; and

(3) to the extent possible, audits under this section are completed in a timely manner.

(c) If another state agency succeeds to the department's operation of a part of the state Medicaid program for which the department used a Medicaid contractor, the successor agency shall comply with this section with regard to the Medicaid contractor, including the requirement to contract with an independent auditor to perform the external financial and performance audits required by this section.

Sec. 12.0124. ELECTRONIC TRANSACTIONS; STATE MEDICAID PROGRAM. The department or the department's successor in function in relation to the department's operation of a part of the state Medicaid program shall implement policies that encourage the use of electronic transactions. The policies shall require payment to Medicaid service providers by electronic funds transfer, including electronic remittance and status reports. The policies shall also include the establishment of incentives to submit claims electronically and of disincentives to submit claims on paper that are reasonably based on the higher administrative costs to process claims submitted on paper.

SECTION 1.11. Subchapter B, Chapter 12, Health and Safety Code, is amended by adding Sections 12.0145 and 12.0146 to read as follows:

Sec. 12.0145. INFORMATION ABOUT ENFORCEMENT ACTIONS. (a) The department shall publish and provide information in accordance with this section regarding each final enforcement action taken by the department, commissioner, or board against a person or facility regulated by the department in which any kind of sanction is imposed, including:

(1) the imposition of a reprimand, a period of probation, a monetary penalty, or a condition on a person's continued practice or a facility's continued operation; and

(2) the refusal to renew or the suspension, probation, or revocation of a license or other form of permission to engage in an activity.

(b) Except to the extent that the information is specifically made confidential under other law, the department shall publish and provide the name, including any trade name, of the person or facility against which an enforcement action was taken, the violation that the person or facility was found to have committed, and the sanction imposed. The department shall publish and provide the information in a way that does not serve to identify a complainant.

(c) The department shall publish the information on its generally accessible Internet site. The department also shall provide the information by establishing a system under which members of the public can call toll-free numbers to obtain the information efficiently and with a minimum of delay. The department shall appropriately publicize the toll-free numbers.

(d) The department shall publish and provide the information promptly

after the sanction has been imposed or, when applicable, promptly after the period during which the sanction is imposed has begun. The department by rule shall establish the length of time during which the required information will be published and provided under this section based on the department's determination regarding the types of services provided by regulated entities and the length of time for which information about a category of enforcement actions is useful to a member of the public.

(e) The department shall publish and provide the information using clear language that can be readily understood by a person with a high school education.

(f) If another law specifically requires that particular information subject to this section shall be published in another manner, the department shall comply with this section and with the other law.

(g) A determination that the department is not required to publish and provide information under this section does not affect a determination regarding whether the information is subject to required disclosure under the open records law, Chapter 552, Government Code. The department's determination regarding the length of the period during which information should continue to be published and provided under this section does not affect a determination regarding the period for which the information must be preserved under Chapter 441, Government Code, or under another law.

Sec. 12.0146. TRENDS IN ENFORCEMENT. The department shall publish annually an analysis of its enforcement actions taken under state law with regard to each profession, industry, or type of facility regulated by the department. The analysis for each regulatory area must show at a minimum the year-to-year trends in the number and types of enforcement actions taken by the department in its regulation of the profession, industry, or type of facility.

SECTION 1.12. Section 466.001(a), Health and Safety Code, is amended to read as follows:

(a) It is the intent of the legislature that the department [~~and the commission~~] exercise its [~~their respective~~] administrative powers and regulatory authority to ensure the proper use of approved narcotic drugs in the treatment of narcotic dependent persons.

SECTION 1.13. Section 466.002, Health and Safety Code, is amended to read as follows:

Sec. 466.002. DEFINITIONS. In this chapter:

(1) "Approved narcotic drug" means a drug approved by the United States Food and Drug Administration for maintenance or detoxification of a person physiologically addicted to the opiate class of drugs.

(2) "Authorized agent" means an employee of the department who is designated by the commissioner to enforce this chapter.

(3) "Board" means the Texas Board of Health.

(4) [~~"Commission" means the Texas Commission on Alcohol and Drug Abuse;~~

~~(5)~~ "Commissioner" means the commissioner of public health.

~~(6)~~ "Department" means the Texas Department of Health.

~~(7)~~ "Facility" includes a medical office, an outpatient clinic, a

general or special hospital, a community mental health center, and any other location in which a structured narcotic dependency program is conducted.

(7) [(8)] "Narcotic drug" has the meaning assigned by Chapter 481 (Texas Controlled Substances Act).

SECTION 1.14. Section 466.004(a), Health and Safety Code, is amended to read as follows:

(a) The board shall adopt and the department shall administer and enforce rules to ensure the proper use of approved narcotic drugs in the treatment of narcotic drug-dependent persons, including rules that:

(1) require an applicant or a permit holder to make annual, periodic, and special reports that the department determines are necessary;

(2) require an applicant or permit holder to keep records that the department determines are necessary;

(3) provide for investigations that the department determines are necessary; and

(4) provide for the coordination of the approval of narcotic drug treatment programs by the United States Food and Drug Administration and the United States Drug Enforcement Administration~~;~~ and

~~[(5) provide for cooperation with the commission in the licensing of narcotic drug treatment programs as required by Subchapter A, Chapter 464].~~

SECTION 1.15. Section 466.022, Health and Safety Code, is amended to read as follows:

Sec. 466.022. LIMITATION ON PRESCRIPTION, ORDER, OR ADMINISTRATION OF NARCOTIC DRUG. A physician may not prescribe, order, or administer a narcotic drug for the purpose of treating drug dependency unless the physician prescribes, orders, or administers an approved narcotic drug for the maintenance or detoxification of drug-dependent persons as part of a program permitted by the department [~~and the commission~~].

SECTION 1.16. Section 32.028, Human Resources Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) The department in its adoption of reasonable rules and standards governing the determination of rates paid for services provided by a federally qualified health center, as defined by 42 U.S.C. Section 1396d(l)(2)(B), shall assure that a center is reimbursed for 100 percent of reasonable costs incurred by the center in rendering services to Medicaid recipients.

(f) The department in its adoption of reasonable rules and standards governing the determination of rates paid for services provided by a rural health clinic, as defined by 42 U.S.C. Section 1396d(l)(1), shall assure that a clinic is reimbursed for 100 percent of reasonable costs incurred by the clinic in rendering services to Medicaid recipients.

SECTION 1.17. Section 11.016(c), Health and Safety Code, is repealed.

SECTION 1.18. Section 466.005, Health and Safety Code, is repealed.

SECTION 1.19. Section 503.008, Health and Safety Code, is repealed.

SECTION 1.20. The Texas Department of Health shall publish the first comprehensive strategic and operational plan required under Section 11.0045, Health and Safety Code, as added by this Act, not later than September 1, 2000.

SECTION 1.21. The Texas Department of Health shall comprehensively study the impact that the state's Medicaid managed care program has had on each of the populations served by the department and on all health care providers, clinics, and hospitals. The department shall report its findings to the presiding officer of each house of the legislature and of each legislative committee that has oversight responsibility for the department not later than November 1, 2000.

SECTION 1.22. (a) As soon as possible after the effective date of this Act and to the extent allowed under federal law, the Texas Department of Health shall implement a pilot project that, on a scale appropriate for a pilot project, integrates all appropriate functions of the department's health care delivery programs in accordance with Section 12.0115, Health and Safety Code, as added by this Act, including integrating the functions of health care delivery programs that are part of the state Medicaid program with functions of health care delivery programs that are not part of the state Medicaid program.

(b) The pilot project must be initiated not later than September 1, 2000. The pilot project terminates September 1, 2001, but the department may continue successful elements of the project after that date as part of the department's general duty to integrate its health care delivery programs under Section 12.0115, Health and Safety Code, as added by this Act.

(c) The department shall make an interim report regarding its problems and progress in implementing the pilot project not later than September 1, 2000, as part of the initial comprehensive strategic and operational plan required under Section 11.0045, Health and Safety Code, as added by this Act. The department shall fully evaluate the successes and problems of the completed pilot project as part of the comprehensive strategic and operational plan that the department is required to publish not later than September 1, 2002.

(d) In addition to reporting on the problems and successes of the pilot project, the department shall evaluate generally the duties imposed on the department under Section 12.0115, Health and Safety Code, as added by this Act. The department shall report not later than September 1, 2002, as part of the second comprehensive strategic and operational plan, on the benefits and problems that the department foresees in fully implementing Section 12.0115. The second comprehensive report shall:

(1) state the ways in which the department intends to integrate its programs;

(2) demonstrate why it is expected that the department's approach will best promote the goals of program integration, with regard to expected benefits to recipients and providers of health services and with regard to administrative savings expected to be realized by government and by providers of health services;

(3) address the extent to which the department has implemented or plans to implement a uniform contracting process that incorporates processes and principles identified by the department's contract leverage team in its July 1996 Contracting Guide for Client Services, and state the expected savings and efficiencies that have resulted or should result from implementation;

(4) state the ways in which the department's plan to integrate the functions of its health care delivery programs includes a plan to coordinate contract performance monitoring, combine claims processing, and improve the process by which providers are reimbursed; and

(5) recommend any changes to state law that are needed to remove impediments to an integrated health care delivery system.

SECTION 1.23. (a) The Texas Department of Health, with the assistance of the state auditor, shall conduct a comprehensive evaluation of the department's regulatory functions. The evaluation must include an examination and analysis of the effectiveness of the department's:

(1) rules that affect or support its regulatory practices;

(2) inspection efforts, including its scheduling of inspections and consistency between inspections;

(3) investigative practices, including investigations conducted in response to a complaint;

(4) use of sanctions;

(5) enforcement actions in relation to the time it takes to initiate and complete an enforcement action and in relation to the role of the department's office of general counsel;

(6) efforts to ensure compliance with applicable laws and rules; and

(7) efforts to ensure the consistency and appropriateness of the training of inspectors, including ensuring that:

(A) inspectors are familiar with the type of facility and with the type of care provided at a facility that they inspect; and

(B) the skills and knowledge of inspectors remain current through continuing education and review.

(b) The department shall report the results of the evaluation, including the identification of any problem areas and any recommended solutions to the problems that require management actions or statutory changes, to the legislature and to the Texas Board of Health not later than November 1, 2000.

SECTION 1.24. (a) The change in law made by this Act to Section 2003.021, Government Code, transferring the responsibility to conduct hearings in matters that are contested cases under Chapter 2001, Government Code, from the commissioner of public health and the Texas Board of Health or Texas Department of Health to the State Office of Administrative Hearings, applies only to a contested case in which notice of the hearing is given under Sections 2001.051 and 2001.052, Government Code, on or after the effective date of this Act. The commissioner of public health or the Texas Board of Health or Texas Department of Health, as appropriate, shall conduct the hearing in a contested case for which the notice of hearing is given before the effective date of this Act.

(b) This Act does not transfer from the commissioner of public health or the Texas Board of Health or Texas Department of Health, as appropriate, the responsibility to conduct a fair hearing that is required under federal law unless the fair hearing is considered to be a contested case under Chapter 2001, Government Code.

(c) This Act does not require the commissioner of public health or the Texas Board of Health or Texas Department of Health to transfer personnel to the State Office of Administrative Hearings.

SECTION 1.25. The changes in law made by this Act in the prohibitions applying to members of the Texas Board of Health do not affect the entitlement of a member serving on the board immediately before September 1, 1999, to continue to serve and function as a member of the board for the remainder of the member's term. The changes in law apply only to a member appointed on or after September 1, 1999.

ARTICLE 2. LICENSURE OF HOSPITAL OUTPATIENT FACILITIES;
FEES CHARGED TO HOSPITALS

SECTION 2.01. Section 241.023, Health and Safety Code, is amended to read as follows:

Sec. 241.023. ISSUANCE OF LICENSE. (a) On receiving a license application and the license fee, the department shall issue a license if it finds that the applicant and the hospital comply with this chapter and the rules or standards adopted under this chapter.

(b) A license may be renewed annually after payment of the required fee.

(c) The department may issue a license only for the premises and person or governmental unit named in the application.

(d) Subject to Subsection (e), a license issued under this section for a hospital includes each outpatient facility that is not separately licensed, that is located apart from the hospital, and for which the hospital has submitted to the department:

(1) a copy of a fire safety survey that is dated not earlier than one year before the submission date indicating approval by:

(A) the local fire authority in whose jurisdiction the outpatient facility is located; or

(B) the nearest fire authority, if the outpatient facility is located outside of the jurisdiction of a local fire authority; and

(2) if the hospital is accredited by the Joint Commission on Accreditation of Healthcare Organizations or the American Osteopathic Association, a copy of documentation from the accrediting body showing that the outpatient facility is included within the hospital's accreditation.

(e) Subsection (d) applies only if the federal Department of Health and Human Services, Health Care Financing Administration, or Office of Inspector General adopts final or interim final rules requiring state licensure of outpatient facilities as a condition of the determination of provider-based status for Medicare reimbursement purposes.

(f) A license may not be transferred or assigned without the written approval of the department.

(g) ~~(f)~~ A license shall be posted in a conspicuous place on the licensed premises.

SECTION 2.02. Section 241.025, Health and Safety Code, is amended to read as follows:

Sec. 241.025. LICENSE FEES. (a) The department shall charge each hospital an annual license fee for an initial license or a license renewal.

(b) The board by rule shall adopt the fees authorized by Subsection (a) according to a schedule under [it] which the number of beds in the hospital determines the amount of the fee. The fee may not exceed \$15 ~~[\$10]~~ a bed. A minimum license fee may be established. The minimum fee may not

~~exceed \$1,000[, and the total fee may not be less than \$200 or more than \$10,000].~~

~~(c) A fee adopted under this chapter must be based on the estimated cost to and level of effort expended by the department to conduct the activity for which the fee is imposed. [The board by rule shall adopt a temporary initial license fee in an amount sufficient to cover the reasonable expense to the department of issuing the license.]~~

(d) All license fees collected shall be deposited in the state treasury to the credit of the department to administer and enforce this chapter. These fees are hereby appropriated to the department.

SECTION 2.03. Section 241.104, Health and Safety Code, is amended to read as follows:

Sec. 241.104. HOSPITAL PLAN REVIEWS. (a) The board by rule shall adopt fees for hospital plan reviews according to a schedule based on the estimated construction costs. ~~[If an estimated construction cost cannot be established, the estimated cost is \$105 per square foot.]~~

(b) The fee schedule may not exceed the following:

	Cost of Construction	Fee
(1)	\$ <u>100,000</u> [600,000] or less	\$ 500
(2)	\$ <u>100,001</u> - \$ 600,000	\$1,500
(3)	\$ 600,001 - \$ 2,000,000	<u>\$3,000</u> [1,000]
(4) [(3)]	\$ 2,000,001 - \$ 5,000,000	<u>\$4,500</u> [1,500]
(5) [(4)]	\$ 5,000,001 - \$10,000,000	<u>\$6,000</u> [2,000]
(6) [(5)]	\$10,000,001 and over	<u>\$7,500</u> [3,000]

(c) The department shall charge a fee for field surveys of construction plans reviewed under this section. The board by rule shall adopt a fee schedule for the surveys that provides a minimum fee of \$500 ~~[\$100]~~ and a maximum fee of \$1,000 ~~[\$400]~~ for each survey conducted.

SECTION 2.04. Section 241.0231, Health and Safety Code, is repealed.

ARTICLE 3. AMBULATORY SURGICAL CENTERS; ADMINISTRATIVE PENALTIES

SECTION 3.01. Chapter 243, Health and Safety Code, is amended by adding Sections 243.015 and 243.016 to read as follows:

Sec. 243.015. IMPOSITION OF ADMINISTRATIVE PENALTY. (a) The department may impose an administrative penalty on a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter. A penalty collected under this section or Section 243.016 shall be deposited in the state treasury in the general revenue fund.

(b) A proceeding to impose the penalty is considered to be a contested case under Chapter 2001, Government Code.

(c) The amount of the penalty may not exceed \$1,000 for each violation, and each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The total amount of the penalty assessed for a violation continuing or occurring on separate days under this subsection may not exceed \$5,000.

(d) The amount shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the threat to health or safety caused by the violation;
(3) the history of previous violations;
(4) the amount necessary to deter a future violation;
(5) whether the violator demonstrated good faith, including when applicable whether the violator made good faith efforts to correct the violation; and

(6) any other matter that justice may require.

(e) If the department initially determines that a violation occurred, the department shall give written notice of the report by certified mail to the person.

(f) The notice under Subsection (e) must:

(1) include a brief summary of the alleged violation;
(2) state the amount of the recommended penalty; and
(3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

(g) Within 20 days after the date the person receives the notice under Subsection (e), the person in writing may:

(1) accept the determination and recommended penalty of the department; or

(2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(h) If the person accepts the determination and recommended penalty or if the person fails to respond to the notice, the commissioner of public health by order shall approve the determination and impose the recommended penalty.

(i) If the person requests a hearing, the commissioner of public health shall refer the matter to the State Office of Administrative Hearings, which shall promptly set a hearing date and give written notice of the time and place of the hearing to the person. An administrative law judge of the State Office of Administrative Hearings shall conduct the hearing.

(j) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the commissioner of public health a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty.

(k) Based on the findings of fact, conclusions of law, and proposal for a decision, the commissioner of public health by order may:

(1) find that a violation occurred and impose a penalty; or

(2) find that a violation did not occur.

(l) The notice of the commissioner's order under Subsection (k) that is sent to the person in accordance with Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

Sec. 243.016. PAYMENT AND COLLECTION OF ADMINISTRATIVE PENALTY; JUDICIAL REVIEW. (a) Within 30 days after the date an order of the commissioner of public health under Section 243.015(k) that imposes an administrative penalty becomes final, the person shall:

(1) pay the penalty; or

(2) file a petition for judicial review of the commissioner's order contesting the occurrence of the violation, the amount of the penalty, or both.

(b) Within the 30-day period prescribed by Subsection (a), a person who files a petition for judicial review may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account; or

(B) giving the court a supersedeas bond approved by the court that:

(i) is for the amount of the penalty; and

(ii) is effective until all judicial review of the commissioner's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) sending a copy of the affidavit to the commissioner of public health by certified mail.

(c) If the commissioner of public health receives a copy of an affidavit under Subsection (b)(2), the commissioner may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty or to give a supersedeas bond.

(d) If the person does not pay the penalty and the enforcement of the penalty is not stayed, the penalty may be collected. The attorney general may sue to collect the penalty.

(e) If the court sustains the finding that a violation occurred, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty.

(f) If the court does not sustain the finding that a violation occurred, the court shall order that a penalty is not owed.

(g) If the person paid the penalty and if the amount of the penalty is reduced or the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, that the appropriate amount plus accrued interest be remitted to the person within 30 days after the date that the judgment of the court becomes final. The interest accrues at the rate charged on loans to depository institutions by the New York Federal Reserve Bank. The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

(h) If the person gave a supersedeas bond and the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, the release of the bond. If the person gave a supersedeas bond and the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the reduced amount.

ARTICLE 4. BIRTHING CENTERS; ADMINISTRATIVE PENALTIES

SECTION 4.01. Chapter 244, Health and Safety Code, is amended by adding Sections 244.015 and 244.016 to read as follows:

Sec. 244.015. IMPOSITION OF ADMINISTRATIVE PENALTY. (a) The department may impose an administrative penalty on a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter. A penalty collected under this section or Section 244.016 shall be deposited in the state treasury in the general revenue fund.

(b) A proceeding to impose the penalty is considered to be a contested case under Chapter 2001, Government Code.

(c) The amount of the penalty may not exceed \$1,000 for each violation, and each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The total amount of the penalty assessed for a violation continuing or occurring on separate days under this subsection may not exceed \$5,000.

(d) The amount shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the threat to health or safety caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) whether the violator demonstrated good faith, including when applicable whether the violator made good faith efforts to correct the violation; and

(6) any other matter that justice may require.

(e) If the department initially determines that a violation occurred, the department shall give written notice of the report by certified mail to the person.

(f) The notice under Subsection (e) must:

(1) include a brief summary of the alleged violation;

(2) state the amount of the recommended penalty; and

(3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

(g) Within 20 days after the date the person receives the notice under Subsection (e), the person in writing may:

(1) accept the determination and recommended penalty of the department; or

(2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(h) If the person accepts the determination and recommended penalty or if the person fails to respond to the notice, the commissioner of public health by order shall approve the determination and impose the recommended penalty.

(i) If the person requests a hearing, the commissioner of public health shall refer the matter to the State Office of Administrative Hearings, which shall promptly set a hearing date and give written notice of the time and place of the hearing to the person. An administrative law judge of the State Office of Administrative Hearings shall conduct the hearing.

(j) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the commissioner of public health a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty.

(k) Based on the findings of fact, conclusions of law, and proposal for a decision, the commissioner of public health by order may:

- (1) find that a violation occurred and impose a penalty; or
- (2) find that a violation did not occur.

(l) The notice of the commissioner's order under Subsection (k) that is sent to the person in accordance with Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

Sec. 244.016. PAYMENT AND COLLECTION OF ADMINISTRATIVE PENALTY; JUDICIAL REVIEW. (a) Within 30 days after the date an order of the commissioner of public health under Section 244.015(k) that imposes an administrative penalty becomes final, the person shall:

(1) pay the penalty; or

(2) file a petition for judicial review of the commissioner's order contesting the occurrence of the violation, the amount of the penalty, or both.

(b) Within the 30-day period prescribed by Subsection (a), a person who files a petition for judicial review may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account; or

(B) giving the court a supersedeas bond approved by the court that:

(i) is for the amount of the penalty; and

(ii) is effective until all judicial review of the commissioner's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) sending a copy of the affidavit to the commissioner of public health by certified mail.

(c) If the commissioner of public health receives a copy of an affidavit under Subsection (b)(2), the commissioner may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty or to give a supersedeas bond.

(d) If the person does not pay the penalty and the enforcement of the penalty is not stayed, the penalty may be collected. The attorney general may sue to collect the penalty.

(e) If the court sustains the finding that a violation occurred, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty.

(f) If the court does not sustain the finding that a violation occurred, the court shall order that a penalty is not owed.

(g) If the person paid the penalty and if the amount of the penalty is reduced or the penalty is not upheld by the court, the court shall order, when

the court's judgment becomes final, that the appropriate amount plus accrued interest be remitted to the person within 30 days after the date that the judgment of the court becomes final. The interest accrues at the rate charged on loans to depository institutions by the New York Federal Reserve Bank. The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

(h) If the person gave a supersedeas bond and the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, the release of the bond. If the person gave a supersedeas bond and the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the reduced amount.

ARTICLE 5. SPECIAL CARE FACILITIES;
ADMINISTRATIVE PENALTIES

SECTION 5.01. Chapter 248, Health and Safety Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. ADMINISTRATIVE PENALTY

Sec. 248.101. IMPOSITION OF PENALTY. (a) The department of health may impose an administrative penalty on a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter.

(b) A penalty collected under this subchapter shall be deposited in the state treasury in the general revenue fund.

Sec. 248.102. AMOUNT OF PENALTY. (a) The amount of the penalty may not exceed \$1,000 for each violation, and each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The total amount of the penalty assessed for a violation continuing or occurring on separate days under this subsection may not exceed \$5,000.

(b) The amount shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the threat to health or safety caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) whether the violator demonstrated good faith, including when applicable whether the violator made good faith efforts to correct the violation; and

(6) any other matter that justice may require.

Sec. 248.103. REPORT AND NOTICE OF VIOLATION AND PENALTY.

(a) If the department initially determines that a violation occurred, the department shall give written notice of the report by certified mail to the person.

(b) The notice must:

(1) include a brief summary of the alleged violation;

(2) state the amount of the recommended penalty; and

(3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

Sec. 248.104. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Within 20 days after the date the person receives the notice sent under Section 248.103, the person in writing may:

(1) accept the determination and recommended penalty of the department; or

(2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(b) If the person accepts the determination and recommended penalty or if the person fails to respond to the notice, the commissioner of public health by order shall approve the determination and impose the recommended penalty.

Sec. 248.105. HEARING. (a) If the person requests a hearing, the commissioner of public health shall refer the matter to the State Office of Administrative Hearings, which shall promptly set a hearing date and give written notice of the time and place of the hearing to the person. An administrative law judge of the State Office of Administrative Hearings shall conduct the hearing.

(b) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the commissioner of public health a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty.

Sec. 248.106. DECISION BY COMMISSIONER. (a) Based on the findings of fact, conclusions of law, and proposal for a decision, the commissioner of public health by order may:

(1) find that a violation occurred and impose a penalty; or

(2) find that a violation did not occur.

(b) The notice of the commissioner's order under Subsection (a) that is sent to the person in accordance with Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

Sec. 248.107. OPTIONS FOLLOWING DECISION: PAY OR APPEAL. Within 30 days after the date the order of the commissioner of public health under Section 248.106 that imposes an administrative penalty becomes final, the person shall:

(1) pay the penalty; or

(2) file a petition for judicial review of the commissioner's order contesting the occurrence of the violation, the amount of the penalty, or both.

Sec. 248.108. STAY OF ENFORCEMENT OF PENALTY. (a) Within the 30-day period prescribed by Section 248.107, a person who files a petition for judicial review may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account; or

(B) giving the court a supersedeas bond approved by the court that:

(i) is for the amount of the penalty; and

(ii) is effective until all judicial review of the commissioner's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) sending a copy of the affidavit to the commissioner of public health by certified mail.

(b) If the commissioner of public health receives a copy of an affidavit under Subsection (a)(2), the commissioner may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty or to give a supersedeas bond.

Sec. 248.109. COLLECTION OF PENALTY. (a) If the person does not pay the penalty and the enforcement of the penalty is not stayed, the penalty may be collected.

(b) The attorney general may sue to collect the penalty.

Sec. 248.110. DECISION BY COURT. (a) If the court sustains the finding that a violation occurred, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty.

(b) If the court does not sustain the finding that a violation occurred, the court shall order that a penalty is not owed.

Sec. 248.111. REMITTANCE OF PENALTY AND INTEREST. (a) If the person paid the penalty and if the amount of the penalty is reduced or the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, that the appropriate amount plus accrued interest be remitted to the person within 30 days after the date that the judgment of the court becomes final.

(b) The interest accrues at the rate charged on loans to depository institutions by the New York Federal Reserve Bank.

(c) The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

Sec. 248.112. RELEASE OF BOND. (a) If the person gave a supersedeas bond and the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, the release of the bond.

(b) If the person gave a supersedeas bond and the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the reduced amount.

Sec. 248.113. ADMINISTRATIVE PROCEDURE. A proceeding to impose the penalty is considered to be a contested case under Chapter 2001, Government Code.

ARTICLE 6. ABUSABLE GLUES AND AEROSOL PAINTS; ADMINISTRATIVE PENALTIES

SECTION 6.01. Chapter 485, Health and Safety Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. ADMINISTRATIVE PENALTY

Sec. 485.101. IMPOSITION OF PENALTY. (a) The department may impose an administrative penalty on a person who sells abusable glue or aerosol paint at retail who violates this chapter or a rule or order adopted under this chapter.

(b) A penalty collected under this subchapter shall be deposited in the state treasury in the general revenue fund.

Sec. 485.102. AMOUNT OF PENALTY. (a) The amount of the penalty may not exceed \$1,000 for each violation, and each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The total amount of the penalty assessed for a violation continuing or occurring on separate days under this subsection may not exceed \$5,000.

(b) The amount shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the threat to health or safety caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) whether the violator demonstrated good faith, including when applicable whether the violator made good faith efforts to correct the violation; and

(6) any other matter that justice may require.

Sec. 485.103. REPORT AND NOTICE OF VIOLATION AND PENALTY. (a) If the department initially determines that a violation occurred, the department shall give written notice of the report by certified mail to the person.

(b) The notice must:

(1) include a brief summary of the alleged violation;

(2) state the amount of the recommended penalty; and

(3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

Sec. 485.104. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Within 20 days after the date the person receives the notice sent under Section 485.103, the person in writing may:

(1) accept the determination and recommended penalty of the department; or

(2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(b) If the person accepts the determination and recommended penalty or if the person fails to respond to the notice, the commissioner by order shall approve the determination and impose the recommended penalty.

Sec. 485.105. HEARING. (a) If the person requests a hearing, the commissioner shall refer the matter to the State Office of Administrative Hearings, which shall promptly set a hearing date and give written notice of the time and place of the hearing to the person. An administrative law judge of the State Office of Administrative Hearings shall conduct the hearing.

(b) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the commissioner a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty.

Sec. 485.106. DECISION BY COMMISSIONER. (a) Based on the findings of fact, conclusions of law, and proposal for a decision, the commissioner by order may:

- (1) find that a violation occurred and impose a penalty; or
- (2) find that a violation did not occur.

(b) The notice of the commissioner's order under Subsection (a) that is sent to the person in accordance with Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

Sec. 485.107. OPTIONS FOLLOWING DECISION: PAY OR APPEAL. Within 30 days after the date the order of the commissioner under Section 485.106 that imposes an administrative penalty becomes final, the person shall:

- (1) pay the penalty; or
- (2) file a petition for judicial review of the commissioner's order contesting the occurrence of the violation, the amount of the penalty, or both.

Sec. 485.108. STAY OF ENFORCEMENT OF PENALTY. (a) Within the 30-day period prescribed by Section 485.107, a person who files a petition for judicial review may:

- (1) stay enforcement of the penalty by:
 - (A) paying the penalty to the court for placement in an escrow account; or
 - (B) giving the court a supersedeas bond approved by the court that:

- (i) is for the amount of the penalty; and
 - (ii) is effective until all judicial review of the commissioner's order is final; or

- (2) request the court to stay enforcement of the penalty by:
 - (A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and
 - (B) sending a copy of the affidavit to the commissioner by certified mail.

(b) If the commissioner receives a copy of an affidavit under Subsection (a)(2), the commissioner may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty or to give a supersedeas bond.

Sec. 485.109. COLLECTION OF PENALTY. (a) If the person does not pay the penalty and the enforcement of the penalty is not stayed, the penalty may be collected.

(b) The attorney general may sue to collect the penalty.

Sec. 485.110. DECISION BY COURT. (a) If the court sustains the finding that a violation occurred, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty.

(b) If the court does not sustain the finding that a violation occurred, the court shall order that a penalty is not owed.

Sec. 485.111. REMITTANCE OF PENALTY AND INTEREST. (a) If the person paid the penalty and if the amount of the penalty is reduced or the

penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, that the appropriate amount plus accrued interest be remitted to the person within 30 days after the date that the judgment of the court becomes final.

(b) The interest accrues at the rate charged on loans to depository institutions by the New York Federal Reserve Bank.

(c) The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

Sec. 485.112. RELEASE OF BOND. (a) If the person gave a supersedeas bond and the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, the release of the bond.

(b) If the person gave a supersedeas bond and the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the reduced amount.

Sec. 485.113. ADMINISTRATIVE PROCEDURE. A proceeding to impose the penalty is considered to be a contested case under Chapter 2001, Government Code.

ARTICLE 7. HAZARDOUS SUBSTANCES; ADMINISTRATIVE PENALTY

SECTION 7.01. Chapter 501, Health and Safety Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. ADMINISTRATIVE PENALTY

Sec. 501.101. IMPOSITION OF PENALTY. (a) The department may impose an administrative penalty on a person:

(1) who manufactures or repacks a hazardous substance that is distributed in this state or who distributes a hazardous substance in this state; and

(2) who violates this chapter or a rule or order adopted under this chapter.

(b) A penalty collected under this subchapter shall be deposited in the state treasury in the general revenue fund.

Sec. 501.102. AMOUNT OF PENALTY. (a) The amount of the penalty may not exceed \$1,000 for each violation, and each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The total amount of the penalty assessed for a violation continuing or occurring on separate days under this subsection may not exceed \$5,000.

(b) The amount shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the threat to health or safety caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) whether the violator demonstrated good faith, including when applicable whether the violator made good faith efforts to correct the violation; and

(6) any other matter that justice may require.

Sec. 501.103. REPORT AND NOTICE OF VIOLATION AND PENALTY. (a) If the department initially determines that a violation occurred, the department shall give written notice of the report by certified mail to the person.

(b) The notice must:

- (1) include a brief summary of the alleged violation;
- (2) state the amount of the recommended penalty; and
- (3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

Sec. 501.104. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Within 20 days after the date the person receives the notice sent under Section 501.103, the person in writing may:

- (1) accept the determination and recommended penalty of the department; or
- (2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(b) If the person accepts the determination and recommended penalty or if the person fails to respond to the notice, the commissioner of public health by order shall approve the determination and impose the recommended penalty.

Sec. 501.105. HEARING. (a) If the person requests a hearing, the commissioner of public health shall refer the matter to the State Office of Administrative Hearings, which shall promptly set a hearing date and give written notice of the time and place of the hearing to the person. An administrative law judge of the State Office of Administrative Hearings shall conduct the hearing.

(b) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the commissioner of public health a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty.

Sec. 501.106. DECISION BY COMMISSIONER. (a) Based on the findings of fact, conclusions of law, and proposal for a decision, the commissioner of public health by order may:

- (1) find that a violation occurred and impose a penalty; or
- (2) find that a violation did not occur.

(b) The notice of the commissioner's order under Subsection (a) that is sent to the person in accordance with Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

Sec. 501.107. OPTIONS FOLLOWING DECISION: PAY OR APPEAL. Within 30 days after the date an order of the commissioner of public health under Section 501.106 that imposes an administrative penalty becomes final, the person shall:

- (1) pay the penalty; or
- (2) file a petition for judicial review of the commissioner's order contesting the occurrence of the violation, the amount of the penalty, or both.

Sec. 501.108. STAY OF ENFORCEMENT OF PENALTY. (a) Within the 30-day period prescribed by Section 501.107, a person who files a petition for judicial review may:

- (1) stay enforcement of the penalty by:
 - (A) paying the penalty to the court for placement in an escrow account; or
 - (B) giving the court a supersedeas bond approved by the court that:

(i) is for the amount of the penalty; and
(ii) is effective until all judicial review of the commissioner's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) giving a copy of the affidavit to the commissioner of public health by certified mail.

(b) If the commissioner of public health receives a copy of an affidavit under Subsection (a)(2), the commissioner may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty or to give a supersedeas bond.

Sec. 501.109. COLLECTION OF PENALTY. (a) If the person does not pay the penalty and the enforcement of the penalty is not stayed, the penalty may be collected.

(b) The attorney general may sue to collect the penalty.

Sec. 501.110. DECISION BY COURT. (a) If the court sustains the finding that a violation occurred, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty.

(b) If the court does not sustain the finding that a violation occurred, the court shall order that a penalty is not owed.

Sec. 501.111. REMITTANCE OF PENALTY AND INTEREST. (a) If the person paid the penalty and if the amount of the penalty is reduced or the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, that the appropriate amount plus accrued interest be remitted to the person within 30 days after the date that the judgment of the court becomes final.

(b) The interest accrues at the rate charged on loans to depository institutions by the New York Federal Reserve Bank.

(c) The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

Sec. 501.112. RELEASE OF BOND. (a) If the person gave a supersedeas bond and the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, the release of the bond.

(b) If the person gave a supersedeas bond and the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the reduced amount.

Sec. 501.113. ADMINISTRATIVE PROCEDURE. A proceeding to impose the penalty is considered to be a contested case under Chapter 2001, Government Code.

ARTICLE 8. FEES FOR PRIVATE MENTAL HOSPITALS AND CERTAIN OTHER MENTAL HEALTH FACILITIES

SECTION 8.01. Section 577.006, Health and Safety Code, is amended to read as follows:

Sec. 577.006. FEES. (a) The department shall charge each hospital an annual license fee for an initial license or a license renewal [board by rule shall adopt:

[(1) an application fee;

(2) a license fee;

(3) a fee schedule for reviewing the plan of the hospital or facility premises; and

(4) a fee schedule for field surveys of construction plans].

(b) The board by rule shall adopt the fees authorized by Subsection (a) according to a schedule under which the number of beds in the hospital determines the amount of the fee. The fee may not exceed \$15 a bed. A minimum license fee may be established. The minimum fee may not exceed \$1,000 [department may establish staggered license renewal dates and dates on which fees are due].

(c) The board by rule shall adopt fees for hospital plan reviews according to a schedule under which the amounts of the fees are based on the estimated construction costs. [A fee adopted under this chapter must be based on the estimated cost to and the level of effort expended by the department to conduct the activity for which the fee is imposed.]

(d) The fees imposed under the schedule may not exceed the following:

	<u>Cost of Construction</u>	<u>Fee</u>
(1)	<u>\$ 100,000 or less</u>	<u>\$ 500</u>
(2)	<u>\$ 100,001 - \$ 600,000</u>	<u>\$1,500</u>
(3)	<u>\$ 600,001 - \$ 2,000,000</u>	<u>\$3,000</u>
(4)	<u>\$ 2,000,001 - \$ 5,000,000</u>	<u>\$4,500</u>
(5)	<u>\$ 5,000,001 - \$10,000,000</u>	<u>\$6,000</u>
(6)	<u>\$10,000,001 and over</u>	<u>\$7,500</u>

[The fees should be designed to recover all of the department's cost in granting the initial license and in renewing the license, but may not exceed \$250.]

(e) The department shall charge a fee for field surveys of construction plans reviewed under this section. The board by rule shall adopt a fee schedule for the surveys that provides a minimum fee of \$500 and a maximum fee of \$1,000 for each survey conducted [fee for a plan review or field survey may not exceed \$650].

(f) The department annually shall review the fee schedules to ensure that the fees charged are based on the estimated costs to and level of effort expended by the department.

(g) The department may establish staggered license renewal dates and dates on which fees are due.

(h) A fee adopted under this chapter must be based on the estimated cost to and level of effort expended by the department to conduct the activity for which the fee is imposed.

(i) All license fees collected shall be deposited in the state treasury to the credit of the department to administer and enforce this chapter. These fees may be appropriated only to the department. [Fees collected under this chapter shall be deposited in the state treasury in a separate fund and may be appropriated for salaries, maintenance, travel expenses, repairs, printing, postage, and other uses and purposes prescribed by this subtitle.]

ARTICLE 9. STANDARD SUNSET REVIEW PROVISIONS
APPLICABLE TO THE RADIATION ADVISORY BOARD

SECTION 9.01. Section 401.015, Health and Safety Code, is amended by adding Subsections (d), (e), and (f) to read as follows:

(d) In this subsection, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest. A person may not be a member of the advisory board if:

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

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

(e) A person may not be a member of the advisory board or act as the general counsel to the advisory board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the advisory board.

(f) Appointments to the advisory board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

SECTION 9.02. Subchapter B, Chapter 401, Health and Safety Code, is amended by adding Sections 401.0151 through 401.0153 to read as follows:

Sec. 401.0151. TRAINING FOR ADVISORY BOARD MEMBERS. (a) A person who is appointed to and qualifies for office as a member of the advisory board may not vote, deliberate, or be counted as a member in attendance at a meeting of the advisory board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the advisory board;

(2) the role and functions of the advisory board;

(3) the rules of the advisory board and applicable rules of the department, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(4) the requirements of:

(A) the open meetings law, Chapter 551, Government Code;

(B) the public information law, Chapter 552, Government Code;

(C) the administrative procedure law, Chapter 2001, Government Code; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(5) any applicable ethics policies adopted by the advisory board or the Texas Ethics Commission.

(c) A person appointed to the advisory board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Sec. 401.0152. INFORMATION ABOUT STANDARDS OF CONDUCT. The commissioner or the commissioner's designee shall provide to members of the advisory board, as often as necessary, information regarding the requirements for office under this subchapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers.

Sec. 401.0153. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the advisory board that a member:

(1) does not have at the time of taking office the qualifications required by Section 401.015(a);

(2) does not maintain during service on the advisory board the qualifications required by Section 401.015(a);

(3) is ineligible for membership under Section 401.015(c), (d), or (e);

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled advisory board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the advisory board.

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

(c) If the commissioner has knowledge that a potential ground for removal exists, the commissioner shall notify the advisory board chairman of the potential ground. The advisory board chairman shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the advisory board chairman, the commissioner shall notify the next highest ranking officer of the advisory board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

SECTION 9.03. Section 401.016, Health and Safety Code, is amended to read as follows:

Sec. 401.016. OFFICERS. (a) The governor shall designate a member of the advisory board as the advisory board chairman to serve in that capacity at the will of the governor.

(b) The advisory board shall elect from its members a [~~chairman;~~] vice-chairman[;] and secretary.

SECTION 9.04. Subchapter B, Chapter 401, Health and Safety Code, is amended by adding Section 401.0181 to read as follows:

Sec. 401.0181. PUBLIC TESTIMONY. The advisory board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the advisory board and to speak on any issue under the jurisdiction of the advisory board.

SECTION 9.05. The changes in law made by this Act in the prohibitions applying to members of the radiation advisory board do not affect the entitlement of a member serving on the board immediately before September 1, 1999, to continue to serve and function as a member of the board for the remainder of the member's term. The changes in law apply only to a member appointed on or after September 1, 1999. The changes in law made by this

Act do not prohibit a person who is a member of the board immediately before September 1, 1999, from being reappointed to the board if the person is eligible to serve as a member under Chapter 401, Health and Safety Code, as amended by this Act.

ARTICLE 10. STANDARD SUNSET REVIEW PROVISIONS
APPLICABLE TO THE COUNCIL ON ALZHEIMER'S DISEASE

SECTION 10.01. Section 101.002, Health and Safety Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) The governor shall designate a member [members] of the council who is not [shall annually elect a chairman from the council, except that] an agency representative as the chairman of the council to serve in that capacity at the will of the governor [may not serve as the chairman].

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

SECTION 10.02. Chapter 101, Health and Safety Code, is amended by adding Sections 101.0021 through 101.0023 to read as follows:

Sec. 101.0021. CONFLICT OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the council if:

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

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

(c) A person may not be a member of the council if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the council.

Sec. 101.0022. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the council that a member:

(1) does not have at the time of taking office the qualifications required by Section 101.002(a);

(2) does not maintain during service on the council the qualifications required by Section 101.002(a);

(3) is ineligible for membership under Section 101.0021;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled council meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the council.

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

(c) If the commissioner has knowledge that a potential ground for removal exists, the commissioner shall notify the chairman of the council of the potential ground. The chairman shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential

ground for removal involves the chairman, the commissioner shall notify the next highest ranking officer of the council, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 101.0023. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the council may not vote, deliberate, or be counted as a member in attendance at a meeting of the council until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the council;

(2) the programs operated by the council;

(3) the role and functions of the council;

(4) the rules of the council;

(5) the current budget for the council;

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

(7) the requirements of:

(A) the open meetings law, Chapter 551, Government Code;

(B) the public information law, Chapter 552, Government Code;

(C) the administrative procedure law, Chapter 2001, Government Code; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the council or the Texas Ethics Commission.

(c) A person appointed to the council is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 10.03. Chapter 101, Health and Safety Code, is amended by adding Section 101.0065 to read as follows:

Sec. 101.0065. PUBLIC TESTIMONY. The council shall develop and implement policies that provide the public with a reasonable opportunity to appear before the council and to speak on any issue under the jurisdiction of the council.

SECTION 10.04. Chapter 101, Health and Safety Code, is amended by adding Section 101.0075 to read as follows:

Sec. 101.0075. DIVISION OF POLICY AND MANAGEMENT RESPONSIBILITIES. The council shall develop and implement policies that clearly separate the policymaking responsibilities of the council and the management responsibilities of the commissioner and the staff of the department.

SECTION 10.05. Chapter 101, Health and Safety Code, is amended by adding Section 101.0081 to read as follows:

Sec. 101.0081. INFORMATION ABOUT STANDARDS OF CONDUCT. The commissioner or the commissioner's designee shall provide to members of the council, as often as necessary, information regarding the requirements for office under this chapter, including information regarding a person's

responsibilities under applicable laws relating to standards of conduct for state officers.

SECTION 10.06. The changes in law made by this Act in the prohibitions applying to members of the Texas Council on Alzheimer's Disease and Related Disorders do not affect the entitlement of a member serving on the council immediately before September 1, 1999, to continue to serve and function as a member of the council for the remainder of the member's term. The changes in law apply only to a member appointed on or after September 1, 1999. The changes in law made by this Act do not prohibit a person who is a member of the council immediately before September 1, 1999, from being reappointed to the council if the person is eligible to serve as a member under Chapter 101, Health and Safety Code, as amended by this Act.

ARTICLE 11. STANDARD SUNSET REVIEW PROVISIONS APPLICABLE TO THE STATEWIDE HEALTH COORDINATING COUNCIL

SECTION 11.01. Section 104.011, Health and Safety Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) The governor shall designate a member of the council as the presiding officer of the council to serve in that capacity at the will of the governor.

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

SECTION 11.02. Subchapter B, Chapter 104, Health and Safety Code, is amended by adding Sections 104.0111 through 104.0113 to read as follows:

Sec. 104.0111. CONFLICT OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the statewide health coordinating council if:

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

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

(c) A person may not be a member of the council if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the council.

Sec. 104.0112. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the statewide health coordinating council that a member:

(1) does not have at the time of taking office the qualifications required by Section 104.011(a);

(2) does not maintain during service on the council the qualifications required by Section 104.011(a);

(3) is ineligible for membership under Section 104.0111;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled council

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

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

(c) If the commissioner has knowledge that a potential ground for removal exists, the commissioner shall notify the presiding officer of the council of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the commissioner shall notify the next highest ranking officer of the council, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 104.0113. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the statewide health coordinating council may not vote, deliberate, or be counted as a member in attendance at a meeting of the council until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

- (1) the legislation that created the council;
- (2) the programs operated by the council;
- (3) the role and functions of the council;
- (4) the rules of the council;
- (5) the current budget for the council;
- (6) the results of the most recent formal audit of the council;
- (7) the requirements of:

(A) the open meetings law, Chapter 551, Government Code;

(B) the public information law, Chapter 552, Government

Code;

(C) the administrative procedure law, Chapter 2001, Government Code; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the council or the Texas Ethics Commission.

(c) A person appointed to the council is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 11.03. Subchapter B, Chapter 104, Health and Safety Code, is amended by adding Sections 104.0141 and 104.0142 to read as follows:

Sec. 104.0141. DIVISION OF POLICY AND MANAGEMENT RESPONSIBILITIES. The statewide health coordinating council shall develop and implement policies that clearly separate the policymaking responsibilities of the council and the management responsibilities of the commissioner and the staff of the department.

Sec. 104.0142. INFORMATION ABOUT STANDARDS OF CONDUCT. The commissioner or the commissioner's designee shall provide to members

of the statewide health coordinating council, as often as necessary, information regarding the requirements for office under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers.

SECTION 11.04. Subchapter B, Chapter 104, Health and Safety Code, is amended by adding Section 104.016 to read as follows:

Sec. 104.016. PUBLIC TESTIMONY. The statewide health coordinating council shall develop and implement policies that provide the public with a reasonable opportunity to appear before the council and to speak on any issue under the jurisdiction of the council.

SECTION 11.05. The changes in law made by this Act in the prohibitions applying to members of the statewide health coordinating council do not affect the entitlement of a member serving on the council immediately before September 1, 1999, to continue to serve and function as a member of the council for the remainder of the member's term. The changes in law apply only to a member appointed on or after September 1, 1999. The changes in law made by this Act do not prohibit a person who is a member of the council immediately before September 1, 1999, from being reappointed to the council if the person is eligible to serve as a member under Chapter 104, Health and Safety Code, as amended by this Act.

ARTICLE 12. STANDARD SUNSET REVIEW PROVISIONS APPLICABLE TO THE TEXAS DIABETES COUNCIL

SECTION 12.01. Section 103.002(d), Health and Safety Code, is amended to read as follows:

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

SECTION 12.02. Section 103.006, Health and Safety Code, is amended to read as follows:

Sec. 103.006. CHAIRMAN. The governor shall designate a member of the council as the [Council members shall annually elect one citizen member to serve as] chairman of the council to serve in that capacity at the will of the governor.

SECTION 12.03. Chapter 103, Health and Safety Code, is amended by adding Sections 103.0024 and 103.0025 to read as follows:

Sec. 103.0024. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the council may not vote, deliberate, or be counted as a member in attendance at a meeting of the council until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

- (1) the legislation that created the council;
- (2) the programs operated by the council;
- (3) the role and functions of the council;
- (4) the rules of the council;
- (5) the current budget for the council;
- (6) the results of the most recent formal audit of the council;
- (7) the requirements of:

(A) the open meetings law, Chapter 551, Government Code;

(B) the public information law, Chapter 552, Government Code;

(C) the administrative procedure law, Chapter 2001, Government Code; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the council or the Texas Ethics Commission.

(c) A person appointed to the council is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Sec. 103.0025. INFORMATION ABOUT STANDARDS OF CONDUCT. The commissioner or the commissioner's designee shall provide to members of the council, as often as necessary, information regarding the requirements for office under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers.

SECTION 12.04. Chapter 103, Health and Safety Code, is amended by adding Section 103.0105 to read as follows:

Sec. 103.0105. DIVISION OF POLICY AND MANAGEMENT RESPONSIBILITIES. The council shall develop and implement policies that clearly separate the policymaking responsibilities of the council and the management responsibilities of the commissioner and the staff of the department.

SECTION 12.05. The changes in law made by this Act in the prohibitions applying to members of the Texas Diabetes Council do not affect the entitlement of a member serving on the council immediately before September 1, 1999, to continue to serve and function as a member of the council for the remainder of the member's term. The changes in law apply only to a member appointed on or after September 1, 1999.

ARTICLE 13. STANDARD SUNSET REVIEW PROVISIONS APPLICABLE TO THE ADVISORY BOARD OF ATHLETIC TRAINERS

SECTION 13.01. Section 2, Chapter 498, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4512d, Vernon's Texas Civil Statutes), is amended by amending Subsections (a) and (b) and adding Subsection (e) to read as follows:

(a) The Advisory Board of Athletic Trainers, composed of six members, is created. The board is created as a part of the Texas [State] Department of Health and shall perform its duties as a board within the Texas [State] Department of Health. To qualify as a member, a person must be a citizen of the United States and a resident of Texas for five years immediately preceding appointment. Four members [Members] must be licensed athletic trainers. Two members must be representatives of the general public. A person may not be a public member of the board if the person or the person's spouse:

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

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

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the board; or

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

(b) The members of the board shall be appointed by the governor with the advice and consent of the Senate. Members [~~Except for the initial appointees, members~~] hold office for terms of six years. The terms of two members expire on January 31 of each odd-numbered year [~~years~~].

(e) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

SECTION 13.02. Chapter 498, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4512d, Vernon's Texas Civil Statutes), is amended by adding Sections 2B, 2C, 2D, 2E, and 2F to read as follows:

Sec. 2B. CONFLICT OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the board if:

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

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

(c) A person may not be a member of the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

Sec. 2C. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the board that a member:

(1) does not have at the time of taking office the qualifications required by Subsection (a) of Section 2 of this Act;

(2) does not maintain during service on the board the qualifications required by Subsection (a) of Section 2 of this Act;

(3) is ineligible for membership under Section 2B of this Act;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

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

(c) If the commissioner of public health has knowledge that a potential ground for removal exists, the commissioner shall notify the chairman of the board of the potential ground. The chairman shall then notify the governor

and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the chairman, the commissioner shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

Sec. 2D. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the board;
(2) the programs operated by the board;
(3) the role and functions of the board;
(4) the rules of the board, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the board;

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

(7) the requirements of:

(A) the open meetings law, Chapter 551, Government Code;

(B) the public information law, Chapter 552, Government Code;

(C) the administrative procedure law, Chapter 2001, Government Code; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

Sec. 2E. INFORMATION ABOUT STANDARDS OF CONDUCT. The commissioner of public health or the commissioner's designee shall provide to members of the board, as often as necessary, information regarding the requirements for office under this Act, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers.

Sec. 2F. DIVISION OF POLICY AND MANAGEMENT RESPONSIBILITIES. The board shall develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the commissioner of public health and the staff of the Texas Department of Health.

SECTION 13.03. Section 3, Chapter 498, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4512d, Vernon's Texas Civil Statutes), is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) The governor shall designate a member of the board as the chairman of the board to serve in that capacity at the will of the governor. The board

shall elect from its members for a term of one year[;] a [~~chairman;~~] vice chairman[;] and secretary-treasurer, and may appoint such committees as it considers necessary to carry out its duties.

(d) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

SECTION 13.04. Chapter 498, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4512d, Vernon's Texas Civil Statutes), is amended by adding Section 4A to read as follows:

Sec. 4A. COMPLAINTS. (a) The board shall maintain a file on each written complaint filed with the board. The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint is received by the board;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the board closed the file without taking action other than to investigate the complaint.

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

(c) The board, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

SECTION 13.05. Section 5, Chapter 498, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4512d, Vernon's Texas Civil Statutes), is amended by amending Subsection (c) and adding Subsection (j) to read as follows:

(c) The board shall [~~establish guidelines, which may include requirements for continuing education, for athletic trainers in the state and] prepare and conduct an examination for applicants for a license.~~

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

SECTION 13.06. Chapter 498, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4512d, Vernon's Texas Civil Statutes), is amended by adding Section 5A to read as follows:

Sec. 5A. RULES REGARDING ADVERTISING OR COMPETITIVE BIDDING. (a) The board may not adopt rules restricting advertising or competitive bidding by a license holder except to prohibit false, misleading, or deceptive practices.

(b) In its rules to prohibit false, misleading, or deceptive practices, the board may not include a rule that:

- (1) restricts the use of any medium for advertising;
- (2) restricts the use of a license holder's personal appearance or voice in an advertisement;

(3) relates to the size or duration of an advertisement by the license holder; or

(4) restricts the license holder's advertisement under a trade name.

SECTION 13.07. Section 11, Chapter 498, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4512d, Vernon's Texas Civil Statutes), is amended by amending Subsections (b)-(e) to read as follows:

(b) A person who is otherwise eligible to renew a license may renew an unexpired license by paying to the board before the expiration date of the license the required renewal fee. A person whose license has expired may not engage in activities that require a license until the license has been renewed.

(c) If a person's license has been expired for not longer than 90 days, the person may renew the license by paying to the board a renewal fee that is 1-1/2 times the normally required renewal fee [and a fee that is one-half of the examination fee for the license].

(d) If a person's license has been expired for longer than 90 days but less than one year [two years], the person may renew the license by paying to the board [all unpaid renewal fees and] a renewal fee that is equal to two times the normally required renewal [the examination] fee for the license.

(e) If a person's license has been expired for one year [two years] or longer, the person may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license. However, the board may renew without reexamination an expired license of a person who was licensed in Texas, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date of application. The person must pay to the board a fee that is equal to two times the normally required renewal [the examination] fee for the license.

SECTION 13.08. Section 12, Chapter 498, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4512d, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 12. GROUNDS FOR DENIAL, SUSPENSION, OR REVOCATION OF LICENSE. (a) The board may refuse to issue a license to an applicant and shall reprimand a licensee or [may] suspend, [or] revoke, or refuse to renew the license of any licensee if he has:

(1) been convicted of a felony or misdemeanor involving moral turpitude, the record of conviction being conclusive evidence of conviction; [or]

(2) secured the license by fraud or deceit; or

(3) violated or conspired to violate the provisions of this Act or rules and regulations issued pursuant to this Act.

(b) The board may place on probation a person whose license is suspended. If a suspension is probated, the board may require the person:

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

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

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

SECTION 13.09. Chapter 498, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4512d, Vernon's Texas Civil Statutes), is amended by adding Sections 15A and 15B to read as follows:

Sec. 15A. IMPOSITION OF ADMINISTRATIVE PENALTY. (a) The board may impose an administrative penalty on a person licensed under this Act who violates this Act or a rule or order adopted under this Act. A penalty collected under this section or Section 15B of this Act shall be deposited in the state treasury in the general revenue fund.

(b) A proceeding to impose the penalty is considered to be a contested case under Chapter 2001, Government Code.

(c) The amount of the penalty may not exceed \$500 for each violation, and each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The total amount of the penalty assessed for a violation continuing or occurring on separate days under this subsection may not exceed \$2,500.

(d) The amount shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the threat to health or safety caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) whether the violator demonstrated good faith, including when applicable whether the violator made good faith efforts to correct the violation; and

(6) any other matter that justice may require.

(e) If the executive secretary determines that a violation occurred, the executive secretary shall give written notice of the violation by certified mail to the person.

(f) The notice under Subsection (e) of this section must:

(1) include a brief summary of the alleged violation;

(2) state the amount of the recommended penalty; and

(3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

(g) Within 20 days after the date the person receives the notice under Subsection (e) of this section, the person in writing may:

(1) accept the determination and recommended penalty of the executive secretary; or

(2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(h) If the person accepts the determination and recommended penalty or if the person fails to respond to the notice, the board by order shall approve the determination and impose the recommended penalty.

(i) If the person requests a hearing, the board shall refer the matter to the State Office of Administrative Hearings, which shall promptly set a hearing date and give written notice of the time and place of the hearing to the person. An administrative law judge of the State Office of Administrative Hearings shall conduct the hearing.

(j) The administrative law judge shall make findings of fact and

conclusions of law and promptly issue to the board a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty.

(k) Based on the findings of fact, conclusions of law, and proposal for a decision, the board by order may:

(1) find that a violation occurred and impose a penalty; or

(2) find that a violation did not occur.

(l) The notice of the board's order under Subsection (k) of this section that is sent to the person in accordance with Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

Sec. 15B. PAYMENT AND COLLECTION OF ADMINISTRATIVE PENALTY; JUDICIAL REVIEW. (a) Within 30 days after the date an order of the board under Subsection (k) of Section 15A of this Act that imposes an administrative penalty becomes final, the person shall:

(1) pay the penalty; or

(2) file a petition for judicial review of the board's order contesting the occurrence of the violation, the amount of the penalty, or both.

(b) Within the 30-day period prescribed by Subsection (a) of this section, a person who files a petition for judicial review may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account; or

(B) giving the court a supersedeas bond approved by the court that:

(i) is for the amount of the penalty; and

(ii) is effective until all judicial review of the board's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) sending a copy of the affidavit to the board by certified mail.

(c) If the board receives a copy of an affidavit under Subsection (b)(2) of this section, the board may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty or to give a supersedeas bond.

(d) If the person does not pay the penalty and the enforcement of the penalty is not stayed, the penalty may be collected. The attorney general may sue to collect the penalty.

(e) If the court sustains the finding that a violation occurred, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty.

(f) If the court does not sustain the finding that a violation occurred, the court shall order that a penalty is not owed.

(g) If the person paid the penalty and if the amount of the penalty is reduced or the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, that the appropriate amount plus accrued interest be remitted to the person within 30 days after the date that the judgment of the court becomes final. The interest accrues at the rate charged on loans to depository institutions by the New York Federal Reserve Bank. The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

(h) If the person gave a supersedeas bond and the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, the release of the bond. If the person gave a supersedeas bond and the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the reduced amount.

SECTION 13.10. (a) The changes in law made by this Act in the qualifications and the prohibitions applying to members of the Advisory Board of Athletic Trainers do not affect the entitlement of a member serving on the board immediately before September 1, 1999, to continue to serve and function as a member of the board for the remainder of the member's term. The changes in law apply only to a member appointed on or after September 1, 1999. The changes in law made by this Act do not prohibit a person who is a member of the board immediately before September 1, 1999, from being reappointed to the board if the person has the qualifications required for a member under Chapter 498, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4512d, Vernon's Texas Civil Statutes), as amended by this Act.

(b) On the expiration of the terms of the members of the Advisory Board of Athletic Trainers scheduled to expire January 31, 2001, the governor shall appoint one athletic trainer member and one public member to the board for terms expiring January 31, 2007, in accordance with Section 2, Chapter 498, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4512d, Vernon's Texas Civil Statutes), as amended by this Act. On the expiration of the terms of the members of the board scheduled to expire January 31, 2003, the governor shall appoint one athletic trainer member and one public member to the board for terms expiring January 31, 2009, in accordance with Section 2, Chapter 498, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4512d, Vernon's Texas Civil Statutes), as amended by this Act. If a vacancy occurs in a position scheduled to expire January 31, 2001, the governor shall appoint a public member to serve the remainder of the term if an athletic trainer member remains in the other position scheduled to expire on that date. If a vacancy occurs in a position scheduled to expire January 31, 2003, the governor shall appoint a public member to serve the remainder of the term if an athletic trainer member remains in the other position scheduled to expire on that date.

SECTION 13.11. The change in law made by this Act to Subsections (d) and (e), Section 11, Chapter 498, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4512d, Vernon's Texas Civil Statutes), applies only to the renewal of an expired license on or after September 1, 2000. An expired license may be renewed before that date in accordance with Subsections (d) and (e) of Section 11 as they existed immediately before the effective date of this Act, and the prior law is continued in effect for this limited purpose.

ARTICLE 14. STANDARD SUNSET REVIEW PROVISIONS APPLICABLE TO THE REGULATION OF RESPIRATORY CARE PRACTITIONERS

SECTION 14.01. Chapter 829, Acts of the 69th Legislature, Regular Session, 1985 (Article 4512I, Vernon's Texas Civil Statutes), is amended by adding Sections 3A and 3B to read as follows:

Sec. 3A. NOTIFICATION OF EXAMINATION RESULTS. (a) Not later than the 30th day after the date a person takes a certification examination under this Act, the department shall notify the person of the results of the examination.

(b) If the examination is graded or reviewed by a testing service:

(1) the department shall notify the person of the results of the examination not later than the 14th day after the date the department receives the results from the testing service; and

(2) if notice of the examination results will be delayed for longer than 90 days after the examination date, the department shall notify the person of the reason for the delay before the 90th day.

(c) The department may require a testing service to notify a person of the results of the person's examination.

(d) If requested in writing by a person who fails a certification examination administered under this Act, the department shall furnish the person with an analysis of the person's performance on the examination.

Sec. 3B. RULES REGARDING ADVERTISING OR COMPETITIVE BIDDING. (a) The board of health may not adopt rules restricting advertising or competitive bidding by a temporary permit or certificate holder except to prohibit false, misleading, or deceptive practices.

(b) In its rules to prohibit false, misleading, or deceptive practices, the board of health may not include a rule that:

(1) restricts the use of any medium for advertising;

(2) restricts the use of a temporary permit or certificate holder's personal appearance or voice in an advertisement;

(3) relates to the size or duration of an advertisement by the temporary permit or certificate holder; or

(4) restricts the temporary permit or certificate holder's advertisement under a trade name.

SECTION 14.02. Section 7, Chapter 829, Acts of the 69th Legislature, Regular Session, 1985 (Article 4512I, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 7. RENEWAL OF CERTIFICATE. (a) Except as otherwise provided by this section, a certificate shall be renewed annually or biennially as determined by the board of health. The department shall mail a notice of renewal not later than the 30th day before the expiration of the certificate to each person who holds a valid certificate at the person's last known address. The certificate holder shall complete the notice of renewal and shall return it to the department with the renewal fee on or before the date of expiration. A person whose temporary permit or certificate has expired may not engage in activities that require a temporary permit or certificate until the temporary permit or certificate has been renewed.

(b) On receipt of the completed notice of renewal and payment of the

renewal fee, the department shall issue to the certificate holder a certificate for the current renewal period. The renewal is valid for the period stated on the renewal certificate. The board of health shall establish uniform continuing education requirements for the renewal of the certificate of not less than six nor more than 12 continuing education hours per renewal period. The board of health may adopt rules relating to the attainment of the continuing education requirements in hardship situations.

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

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

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

(f) A person who was certified in this state, moved to another state, and is currently certified and has been in practice in the other state for the two years preceding the date of application may obtain a new certificate without reexamination. The person must pay to the department a fee that is equal to two times the normally required renewal fee for the certificate.

~~(g) [A certificate holder who fails to renew the certificate on or before the expiration date may reinstate the certificate within the time set by the board of health on payment of the renewal fee and a reinstatement fee.~~

~~(h) A respiratory care practitioner who does not engage in the practice of respiratory care during a subsequent renewal period and who notifies the department of the inactivity is not required to pay the renewal fee as long as that practitioner remains inactive. If the practitioner desires to resume the practice of respiratory care, the practitioner must notify the department and must satisfy the requirements of the board of health in addition to remitting the renewal fee for the current renewal period and the reinstatement fee.~~

SECTION 14.03. Chapter 829, Acts of the 69th Legislature, Regular Session, 1985 (Article 4512I, Vernon's Texas Civil Statutes), is amended by adding Section 7A to read as follows:

Sec. 7A. STAGGERED RENEWAL DATES. The board of health by rule may adopt a system under which certificates expire on various dates during the year. For the year in which the certificate expiration date is changed, the department shall prorate certificate fees on a monthly basis so that each certificate holder pays only that portion of the certificate fee that is allocable to the number of months during which the certificate is valid. On renewal of the certificate on the new expiration date, the total certificate renewal fee is payable.

ARTICLE 15. STANDARD SUNSET REVIEW PROVISIONS APPLICABLE TO THE REGISTRATION OF DISPENSING OPTICIANS

SECTION 15.01. Subsection (b), Section 5, Opticians' Registry Act (Article 4551-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) The board may not adopt substantive rules relating to this Act other

than substantive rules described by Subsection (a) of this section, Subsection (b) of Section 9 of this Act, and Section 5A of this Act.

SECTION 15.02. The Opticians' Registry Act (Article 4551-1, Vernon's Texas Civil Statutes) is amended by adding Section 5A to read as follows:

Sec. 5A. RULES REGARDING ADVERTISING OR COMPETITIVE BIDDING. (a) The board may not adopt rules restricting advertising or competitive bidding by a registrant except to prohibit false, misleading, or deceptive practices.

(b) In its rules to prohibit false, misleading, or deceptive practices, the board may not include a rule that:

(1) restricts the use of any medium for advertising;

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

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

(4) restricts the registrant's advertisement under a trade name.

SECTION 15.03. Section 7, Opticians' Registry Act (Article 4551-1, Vernon's Texas Civil Statutes), is amended by adding Subsections (c)-(f) to read as follows:

(c) Not later than the 30th day after the date a person takes a qualifying examination under this Act, the department shall notify the person of the results of the examination.

(d) If the examination is graded or reviewed by a testing service:

(1) the department shall notify the person of the results of the examination not later than the 14th day after the date the department receives the results from the testing service; and

(2) if notice of the examination results will be delayed for longer than 90 days after the examination date, the department shall notify the person of the reason for the delay before the 90th day.

(e) The department may require a testing service to notify a person of the results of the person's examination.

(f) If requested in writing by a person who fails a qualifying examination administered under this Act, the department shall furnish the person with an analysis of the person's performance on the examination.

SECTION 15.04. Section 9, Opticians' Registry Act (Article 4551-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 9. RENEWAL OF REGISTRATION. (a) A certificate of registration issued under this Act is valid for one year from the date of issuance. To renew the registration, the registrant must submit an application for renewal in the manner prescribed by the board.

(b) The application must be accompanied by [~~a renewal fee and~~] evidence that the applicant has successfully completed the continuing education courses required by board rule. The board shall recognize, prepare, or administer continuing education programs for its registrants. A registrant must participate in the programs to the extent required by the board to keep the person's certificate of registration. The board may not require more than 10 classroom hours of continuing education courses per year.

(c) [~~(b)~~] The department shall adopt a system under which registrations expire and are renewed on various dates of the year.

(d) A person who is otherwise eligible to renew a certificate of registration may renew an unexpired certificate by paying the required renewal fee to the department before the expiration date of the certificate. A person whose certificate of registration has expired may not make a representation for which a certificate of registration is required under Section 4 of this Act until the certificate has been renewed.

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

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

(g) A person whose certificate of registration has been expired for one year or more may not renew the certificate. The person may obtain a new certificate of registration by complying with the requirements and procedures, including the examination requirements, for an original certificate.

(h) A person who was registered in this state, moved to another state, and is currently licensed or registered and has been in practice in the other state for the two years preceding the date of application may obtain a new certificate of registration without reexamination. The person must pay to the department a fee that is equal to two times the normally required renewal fee for the certificate.

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

~~[(c) A person registered under this Act who does not renew the registration by the expiration date may renew the registration not later than the 180th day after the expiration date by paying a late registration fee as prescribed by the board.~~

~~[(d) The registration of a person who fails to meet the renewal requirements under this section is void until the person submits a new application, pays the appropriate fees, and meets the current requirements for registration.]~~

SECTION 15.05. Section 12, Opticians' Registry Act (Article 4551-1, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 12. DENIAL, SUSPENSION, REVOCATION, AND PROBATION. (a) The department shall [~~may~~] refuse to issue a certificate of registration to an applicant, suspend or revoke a certificate of registration, or reprimand [~~place on probation~~] an individual who is registered under this Act if the individual:

- (1) obtains a certificate by means of fraud, misrepresentation, or concealment of material facts;
- (2) sells, barter, or offers to sell or barter a certificate of registration;
- (3) violates a lawful rule adopted by the board;
- (4) violates Section 4 of this Act; or
- (5) practices medicine or optometry without a license.

(b) The board may place on probation a person whose registration is suspended. If the suspension is probated, the board may require the person:

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

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

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

(c) A person whose application of registration is denied, whose registration is suspended[;] or revoked, or who is reprimanded is entitled to a hearing before the department if the person submits a written request for a hearing to the department. A hearing is governed by department rules for a contested hearing and by Chapter 2001, Government Code [~~the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)~~].

ARTICLE 16. STANDARD SUNSET REVIEW PROVISIONS APPLICABLE TO THE REGULATION OF MEDICAL RADIOLOGICAL TECHNOLOGISTS

SECTION 16.01. Section 2.05(d), Medical Radiologic Technologist Certification Act (Article 4512m, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) The Texas Board of Health:

(1) may establish guidelines;

(2) shall prepare, recognize, or administer [~~which may include requirements for~~] continuing education programs for medical radiologic technologists in which a medical radiologic technologist must participate, to the extent required by the board, to keep the person's certificate[;] and

(3) [~~the Texas Board of Health~~] may prepare and conduct an examination for applicants for a certificate.

SECTION 16.02. The Medical Radiologic Technologist Certification Act (Article 4512m, Vernon's Texas Civil Statutes) is amended by adding Section 2.055 to read as follows:

Sec. 2.055. RULES REGARDING ADVERTISING OR COMPETITIVE BIDDING. (a) The Texas Board of Health may not adopt rules restricting advertising or competitive bidding by a medical radiologic technologist except to prohibit false, misleading, or deceptive practices.

(b) In its rules to prohibit false, misleading, or deceptive practices, the board may not include a rule that:

(1) restricts the use of any medium for advertising;

(2) restricts the use of a medical radiologic technologist's personal appearance or voice in an advertisement;

(3) relates to the size or duration of an advertisement by the medical radiologic technologist; or

(4) restricts the medical radiologic technologist's advertisement under a trade name.

SECTION 16.03. The Medical Radiologic Technologist Certification Act (Article 4512m, Vernon's Texas Civil Statutes) is amended by adding Section 2.075 to read as follows:

Sec. 2.075. PROVISIONAL CERTIFICATES. (a) The Texas Board of Health may issue a provisional certificate to an applicant currently licensed or certified in another jurisdiction who seeks certification in this state and who:

(1) has been licensed or certified in good standing as a medical radiologic technologist for at least two years in another jurisdiction, including a foreign country, that has licensing or certification requirements substantially equivalent to the requirements of this Act;

(2) has passed a national or other examination recognized by the board relating to the practice of radiologic technology; and

(3) is sponsored by a medical radiologic technologist certified by the board under this Act with whom the provisional certificate holder will practice during the time the person holds a provisional certificate.

(b) The board may waive the requirement of Subsection (a)(3) for an applicant if the board determines that compliance with that subsection would be a hardship to the applicant.

(c) A provisional certificate is valid until the date the board approves or denies the provisional certificate holder's application for a certificate. The board shall issue a certificate under this Act to the provisional certificate holder if:

(1) the provisional certificate holder is eligible to be certified under Section 2.05(c) of this Act; or

(2) the provisional certificate holder passes the part of the examination under Section 2.05(d) of this Act that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of radiologic technology in this state and:

(A) the board verifies that the provisional certificate holder meets the academic and experience requirements for a certificate under this Act; and

(B) the provisional certificate holder satisfies any other licensing requirements under this Act.

(d) The board must approve or deny a provisional certificate holder's application for a certificate not later than the 180th day after the date the provisional certificate is issued. The board may extend the 180-day period if the results of an examination have not been received by the board before the end of that period.

(e) The board may establish a fee for provisional certificates in an amount reasonable and necessary to cover the cost of issuing the certificate.

SECTION 16.04. Section 2.09, Medical Radiologic Technologist Certification Act (Article 4512m, Vernon's Texas Civil Statutes), is amended by amending Subsection (d) and adding Subsections (e)-(j) to read as follows:

(d) The Texas Board of Health may set fees for examination and[;] certificate issuance[; and certificate renewal]. The Texas Board of Health shall set the fees in amounts that are reasonable to cover the costs of administering this Act without the use of additional general revenue funds.

(e) A person who is otherwise eligible to renew a certificate may renew an unexpired certificate by paying the required renewal fee to the department before the expiration date of the certificate. A person whose certificate has expired may not engage in activities that require a certificate until the certificate has been renewed.

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

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

(h) A person whose certificate has been expired for one year or more may not renew the certificate. The person may obtain a new certificate by complying with the requirements and procedures, including the examination requirements, for an original certificate.

(i) A person who held a certificate in this state, moved to another state, and currently holds a certificate or license and has been in practice in the other state for the two years preceding the date of application may obtain a new certificate without reexamination. The person must pay to the department a fee that is equal to two times the normally required renewal fee for the certificate.

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

SECTION 16.05. The Medical Radiologic Technologist Certification Act (Article 4512m, Vernon's Texas Civil Statutes) is amended by adding Sections 2.091 and 2.092 to read as follows:

Sec. 2.091. NOTIFICATION OF EXAMINATION RESULTS. (a) Not later than the 30th day after the date a person takes an examination for a certificate under this Act, the department shall notify the person of the results of the examination.

(b) If the examination is graded or reviewed by a testing service:

(1) the department shall notify the person of the results of the examination not later than the 14th day after the date the department receives the results from the testing service; and

(2) if notice of the examination results will be delayed for longer than 90 days after the examination date, the department shall notify the person of the reason for the delay before the 90th day.

(c) The department may require a testing service to notify a person of the results of the person's examination.

(d) If requested in writing by a person who fails an examination for a certificate administered under this Act, the department shall furnish the person with an analysis of the person's performance on the examination.

Sec. 2.092. STAGGERED RENEWAL DATES. The Texas Board of Health by rule may adopt a system under which certificates expire on various dates during the year. For the year in which the certificate expiration date is changed, the department shall prorate certificate fees on a monthly basis so that each certificate holder pays only that portion of the certificate fee that is allocable to the number of months during which the certificate is valid. On renewal of the certificate on the new expiration date, the total certificate renewal fee is payable.

ARTICLE 17. ADMINISTRATIVE PENALTY AND STANDARD SUNSET
REVIEW PROVISIONS APPLICABLE TO THE TEXAS BOARD OF
LICENSURE FOR PROFESSIONAL MEDICAL PHYSICISTS

SECTION 17.01. Section 5(d), Texas Medical Physics Practice Act (Article 4512n, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) Appointments to the board shall be made without regard to the race, color, disability, creed, sex, religion, age, or national origin of the appointee.

SECTION 17.02. Section 7(d), Texas Medical Physics Practice Act (Article 4512n, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) A [The] public member of the board must be a resident of this state for four years preceding appointment. A person may not be a public member of the board if the person or the person's spouse:

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

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

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the board; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the board other than compensation or reimbursement authorized by law for board membership, attendance, or expenses [and may not have a financial interest in any endeavor related to the practice of medical physics].

SECTION 17.03. The Texas Medical Physics Practice Act (Article 4512n, Vernon's Texas Civil Statutes) is amended by adding Sections 7A and 7B to read as follows:

Sec. 7A. CONFLICT OF INTEREST. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the board if:

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

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

(c) A person may not be a member of the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

Sec. 7B. TRAINING. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) the legislation that created the board;

(2) the programs operated by the board;

(3) the role and functions of the board;

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

(5) the current budget for the board;

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

(7) the requirements of:

(A) the open meetings law, Chapter 551, Government Code;

(B) the public information law, Chapter 552, Government Code;

(C) the administrative procedure law, Chapter 2001, Government Code; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

SECTION 17.04. Section 8, Texas Medical Physics Practice Act (Article 4512n, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 8. REMOVAL FROM OFFICE. (a) It is a ground for removal from the board if a member:

(1) does not have at the time of appointment the qualifications required by Section 7 of this Act for appointment to the board;

(2) does not maintain during service on the board the qualifications required by Section 7 of this Act for appointment to the board;

(3) is ineligible for membership under Subsection (d) of Section 7 of this Act or Section 7A of this Act;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) [(?)] fails to attend at least half of the regularly scheduled board meetings held in a calendar year, excluding meetings held while the person was not a board member, without an excuse approved by a majority of the board.

(b) If a ground for removal of a member of the board exists, the board's actions during the existence of the ground for removal are not invalid for that reason.

(c) If the commissioner of public health has knowledge that a potential ground for removal exists, the commissioner shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the commissioner shall notify the next highest ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.

SECTION 17.05. Section 10, Texas Medical Physics Practice Act (Article 4512n, Vernon's Texas Civil Statutes), is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the will of the governor. At the first regularly scheduled meeting of each calendar year, the board shall

elect from among its members [~~a presiding officer and~~] an assistant presiding officer.

(c) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

SECTION 17.06. Section 11, Texas Medical Physics Practice Act (Article 4512n, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 11. BOARD RESPONSIBILITIES. (a) The board shall:

(1) adopt and revise, with the approval of the department, rules that are reasonably necessary for the proper performance of its duties under this Act;

(2) determine the qualifications and fitness of applicants for licenses, renewal of licenses, and reciprocal licenses;

(3) charge a fee for the processing and issuance or renewal of a license under this Act in an amount necessary to cover costs incurred by the board in administering this Act;

(4) adopt and publish a code of ethics;

(5) adopt an official seal;

(6) conduct examinations for licensure under this Act;

(7) issue, deny, renew, revoke, and suspend licenses under this Act;

(8) conduct hearings on complaints concerning violations of this Act or rules adopted under this Act;

(9) prosecute or file suit to enjoin a violation of this Act or a rule adopted under this Act; and

(10) [~~maintain a file on each complaint filed with the board showing the status and final disposition of the complaint; and~~

[~~(11)~~] prepare information of consumer interest describing the regulatory functions of the board and describing the procedures by which complaints are filed with and resolved by the board.

(b) The board shall recognize, [may] prepare, or [and] administer [an optional] continuing education programs [program] for persons licensed by the board under this Act. A license holder must participate in the programs to the extent required by the board to keep the person's license.

(c) The board shall develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the commissioner of public health, the executive secretary, and the staff of the department.

SECTION 17.07. The Texas Medical Physics Practice Act (Article 4512n, Vernon's Texas Civil Statutes) is amended by adding Sections 11A and 11B to read as follows:

Sec. 11A. COMPLAINTS. (a) The board shall maintain a file on each written complaint filed with the board. The file must include:

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

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

(3) the subject matter of the complaint;

(4) the name of each person contacted in relation to the complaint;

(5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the board closed the file without taking action other than to investigate the complaint.

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

(c) The board, at least quarterly until final disposition of the complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Sec. 11B. RULES REGARDING ADVERTISING OR COMPETITIVE BIDDING. (a) The board may not adopt rules restricting advertising or competitive bidding by a license holder except to prohibit false, misleading, or deceptive practices.

(b) In its rules to prohibit false, misleading, or deceptive practices, the board may not include a rule that:

(1) restricts the use of any medium for advertising;

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

(3) relates to the size or duration of an advertisement by the license holder; or

(4) restricts the license holder's advertisement under a trade name.

SECTION 17.08. Section 12, Texas Medical Physics Practice Act (Article 4512n, Vernon's Texas Civil Statutes), is amended by adding Subsection (c) to read as follows:

(c) The commissioner of health or the commissioner's designee shall provide to members of the board, as often as necessary, information regarding the requirements for office under this Act, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers.

SECTION 17.09. Section 18, Texas Medical Physics Practice Act (Article 4512n, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 18. LICENSING BY ENDORSEMENT OR RECIPROCITY. (a) On receipt of an application and fee in accordance with Section 14 of this Act, the board may waive any prerequisite for obtaining [issue] a license to practice medical physics in this state to a person who:

(1) holds a license to practice medical or radiological physics in another state, territory, or jurisdiction acceptable to the board that has requirements for the licensing of medical or radiological physicists that are substantially the same as the requirements of this Act; or

(2) prior to September 1, 1994:

(A) is a resident of a state, territory, or jurisdiction without a medical physics licensure and/or practice act;

(B) meets all other requirements for licensure without examination in accordance with Section 19 of this Act; and

(C) has demonstrated to the board's satisfaction a working knowledge of Texas rules pertaining to the license specialty requested.

(b) The board may waive any prerequisite for obtaining a license to practice medical physics in this state for an applicant who holds a license

issued by another jurisdiction with which this state has a reciprocity agreement. The board may make an agreement, subject to the approval of the governor, with another state to allow for licensing by reciprocity.

SECTION 17.10. Section 21, Texas Medical Physics Practice Act (Article 4512n, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 21. DENIAL, SUSPENSION, OR REVOCATION OF LICENSE; DISCIPLINARY ACTION. (a) The board shall [~~may~~] refuse to issue or renew a license, suspend or revoke a license, or reprimand the license holder [~~or place a license holder on probation~~] for any of the following:

(1) obtaining or renewing a license by means of fraud, misrepresentation, or concealment of material facts;

(2) having once made application for or held a license issued by the licensing authority of another state, territory, or jurisdiction that was denied, suspended, or revoked by that licensing authority;

(3) engaging in unprofessional conduct that endangered or is likely to endanger the health, safety, or welfare of the public as defined by board rule;

(4) violating this Act, a lawful order or rule of the board, or the board's code of ethics; or

(5) being convicted of a felony or of a misdemeanor that involved moral turpitude or that directly relates to a person's duties and responsibilities as a licensed medical physicist.

(b) The board may place on probation a person whose license is suspended. If a license suspension is probated, the board may require the person:

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

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

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

(c) Chapter 2001, Government Code, [~~The Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)~~] and board rules for a contested hearing apply to proceedings by the board under this section.

SECTION 17.11. The Texas Medical Physics Practice Act (Article 4512n, Vernon's Texas Civil Statutes) is amended by adding Sections 23A and 23B to read as follows:

Sec. 23A. IMPOSITION OF ADMINISTRATIVE PENALTY. (a) The board may impose an administrative penalty on a person licensed under this Act who violates this Act or a rule or order adopted under this Act. A penalty collected under this section or Section 23B of this Act shall be deposited in the state treasury in the general revenue fund.

(b) A proceeding to impose the penalty is considered to be a contested case under Chapter 2001, Government Code.

(c) The amount of the penalty may not exceed \$500 for each violation, and each day a violation continues or occurs is a separate violation for purposes of imposing a penalty. The total amount of the penalty assessed

for a violation continuing or occurring on separate days under this subsection may not exceed \$2,500.

(d) The amount shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the threat to health or safety caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) whether the violator demonstrated good faith, including when applicable whether the violator made good faith efforts to correct the violation; and

(6) any other matter that justice may require.

(e) If the executive secretary determines that a violation occurred, the executive secretary shall give written notice of the report by certified mail to the person.

(f) The notice under Subsection (e) of this section must:

(1) include a brief summary of the alleged violation;

(2) state the amount of the recommended penalty; and

(3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

(g) Within 20 days after the date the person receives the notice under Subsection (e) of this section, the person in writing may:

(1) accept the determination and recommended penalty of the executive secretary; or

(2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(h) If the person accepts the determination and recommended penalty or if the person fails to respond to the notice, the board by order shall approve the determination and impose the recommended penalty.

(i) If the person requests a hearing, the board shall refer the matter to the State Office of Administrative Hearings, which shall promptly set a hearing date and give written notice of the time and place of the hearing to the person. An administrative law judge of the State Office of Administrative Hearings shall conduct the hearing.

(j) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the board a proposal for a decision about the occurrence of the violation and the amount of a proposed penalty.

(k) Based on the findings of fact, conclusions of law, and proposal for a decision, the board by order may:

(1) find that a violation occurred and impose a penalty; or

(2) find that a violation did not occur.

(l) The notice of the board's order under Subsection (k) of this section that is sent to the person in accordance with Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

Sec. 23B. PAYMENT AND COLLECTION OF ADMINISTRATIVE PENALTY; JUDICIAL REVIEW. (a) Within 30 days after the date an order of the board under Subsection (k) of Section 23A of this Act that imposes an administrative penalty becomes final, the person shall:

(1) pay the penalty; or
(2) file a petition for judicial review of the board's order contesting the occurrence of the violation, the amount of the penalty, or both.

(b) Within the 30-day period prescribed by Subsection (a) of this section, a person who files a petition for judicial review may:

(1) stay enforcement of the penalty by:
(A) paying the penalty to the court for placement in an escrow account; or

(B) giving the court a supersedeas bond approved by the court that:

(i) is for the amount of the penalty; and

(ii) is effective until all judicial review of the board's order is final; or

(2) request the court to stay enforcement of the penalty by:

(A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and

(B) sending a copy of the affidavit to the board by certified mail.

(c) If the board receives a copy of an affidavit under Subsection (b)(2) of this section, the board may file with the court, within five days after the date the copy is received, a contest to the affidavit. The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files an affidavit has the burden of proving that the person is financially unable to pay the penalty or to give a supersedeas bond.

(d) If the person does not pay the penalty and the enforcement of the penalty is not stayed, the penalty may be collected. The attorney general may sue to collect the penalty.

(e) If the court sustains the finding that a violation occurred, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced amount of the penalty.

(f) If the court does not sustain the finding that a violation occurred, the court shall order that a penalty is not owed.

(g) If the person paid the penalty and if the amount of the penalty is reduced or the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, that the appropriate amount plus accrued interest be remitted to the person within 30 days after the date that the judgment of the court becomes final. The interest accrues at the rate charged on loans to depository institutions by the New York Federal Reserve Bank. The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

(h) If the person gave a supersedeas bond and the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, the release of the bond. If the person gave a supersedeas bond and the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the reduced amount.

SECTION 17.12. The Texas Medical Physics Practice Act (Article 4512n,

Vernon's Texas Civil Statutes) is amended by adding Section 27 to read as follows:

Sec. 27. PROVISIONAL LICENSES. (a) The board may issue a provisional license to an applicant currently licensed or certified in another jurisdiction who seeks a license in this state and who:

(1) has been licensed or certified in good standing as a practitioner of medical or radiologic physics for at least two years in another jurisdiction, including a foreign country, that has licensing or certification requirements substantially equivalent to the requirements of this Act;

(2) has passed a national or other examination recognized by the board relating to the practice of medical or radiologic physics; and

(3) is sponsored by a person licensed by the board under this Act with whom the provisional license holder will practice during the time the person holds a provisional license.

(b) The board may waive the requirement of Subsection (a)(3) for an applicant if the board determines that compliance with that subsection would be a hardship to the applicant.

(c) A provisional license is valid until the date the board approves or denies the provisional license holder's application for a license. The board shall issue a license under this Act to the provisional license holder if:

(1) the provisional license holder is eligible to be certified under Section 18 of this Act; or

(2) the provisional license holder passes the part of the examination under Section 16 of this Act that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of medical physics in this state and:

(A) the board verifies that the provisional license holder meets the academic and experience requirements for a license under this Act; and

(B) the provisional license holder satisfies any other licensing requirements under this Act.

(d) The board must approve or deny a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued. The board may extend the 180-day period if the results of an examination have not been received by the board before the end of that period.

(e) The board may establish a fee for provisional licenses in an amount reasonable and necessary to cover the cost of issuing the license.

SECTION 17.13. Subsection (e), Section 7, Texas Medical Physics Practice Act (Article 4512n, Vernon's Texas Civil Statutes), is repealed.

SECTION 17.14. The changes in law made by this Act in the prohibitions applying to members of the Texas Board of Licensure for Professional Medical Physicists do not affect the entitlement of a member serving on the board immediately before September 1, 1999, to continue to serve and function as a member of the board for the remainder of the member's term. The changes in law apply only to a member appointed on or after September 1, 1999.

ARTICLE 18. STANDARD SUNSET REVIEW PROVISIONS APPLICABLE TO THE REGULATION OF MASSAGE THERAPISTS

SECTION 18.01. Subsection (b), Section 2, Chapter 752, Acts of the 69th

Legislature, Regular Session, 1985 (Article 4512k, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) An individual who registers as a massage therapist under this Act must present evidence satisfactory to the board that the person:

(1) has satisfactorily completed massage therapy studies in a 300 hour, supervised course of instruction provided by a massage therapy instructor, by a massage school registered by the department, by a state approved educational institution, or by any combination of instructors or schools, in which 125 hours are dedicated to the study of Swedish massage therapy techniques taught by a massage therapy instructor, 50 hours to the study of anatomy, 25 hours to the study of physiology, 15 hours to the study of hydrotherapy, 15 hours to the study of business practices and professional ethics standards, 20 hours to the study of health and hygiene, and 50 hours to an internship program; or

~~(2) [is registered as a massage therapist in another state or country that has and maintains standards and requirements of practice and licensing or registration that substantially conform to those of this state, as determined by the department; or~~

~~[(3)]~~ has practiced massage therapy as a profession for not less than five years in another state or country that does not have or maintain standards and requirements of practice and licensing or registration that substantially conform to those of this state, as determined by the department.

SECTION 18.02. Chapter 752, Acts of the 69th Legislature, Regular Session, 1985 (Article 4512k, Vernon's Texas Civil Statutes), is amended by adding Sections 2C and 2D to read as follows:

Sec. 2C. APPLICANT REGISTERED IN ANOTHER JURISDICTION.

(a) The board may waive any prerequisite to obtaining a certificate of registration for an applicant for registration as a massage therapist or massage therapy instructor after reviewing the applicant's credentials and determining that the applicant holds a license or certificate of registration issued by another jurisdiction that has licensing or registration requirements substantially equivalent to those of this state.

(b) The board may waive any prerequisite to obtaining a certificate of registration for an applicant for registration as a massage therapist or massage therapy instructor who holds a license or certificate of registration issued by another jurisdiction with which this state has a reciprocity agreement. The board may make an agreement, subject to the approval of the governor, with another state to allow for registration by reciprocity.

Sec. 2D. PROVISIONAL REGISTRATION. (a) The board may issue a provisional certificate of registration to an applicant for registration as a massage therapist or massage therapy instructor currently licensed or registered in another jurisdiction who seeks a certificate of registration in this state and who:

(1) has been licensed or registered in good standing as a massage therapist or massage therapy instructor, as applicable, for at least two years in another jurisdiction, including a foreign country, that has licensing or registration requirements substantially equivalent to the requirements of this Act;

(2) has passed a national or other examination recognized by the board relating to the practice of massage therapy; and

(3) is sponsored by a person registered by the board under this Act with whom the provisional registrant will practice during the time the person holds a provisional certificate of registration.

(b) The board may waive the requirement of Subsection (a)(3) for an applicant if the board determines that compliance with that subsection would be a hardship to the applicant.

(c) A provisional certificate of registration is valid until the date the board approves or denies the provisional registrant's application for registration. The board shall issue a certificate of registration under this Act to the provisional registrant if:

(1) the provisional registrant is eligible to be certified under Section 2C of this Act; or

(2) the provisional registrant passes the part of the examination under Section 7 of this Act that relates to the applicant's knowledge and understanding of the laws and rules relating to the practice of massage therapy in this state and:

(A) the board verifies that the provisional registrant meets the academic and experience requirements for registration under this Act; and

(B) the provisional registrant satisfies any other registration requirements under this Act.

(d) The board must approve or deny a provisional registrant's application for a certificate of registration not later than the 180th day after the date the provisional certificate of registration is issued. The board may extend the 180-day period if the results of an examination have not been received by the board before the end of that period.

(e) The board may establish a fee for provisional certificates of registration in an amount reasonable and necessary to cover the cost of issuing the certificate of registration.

SECTION 18.03. Chapter 752, Acts of the 69th Legislature, Regular Session, 1985 (Article 4512k, Vernon's Texas Civil Statutes), is amended by adding Sections 7E, 7F, and 7G to read as follows:

Sec. 7E. NOTIFICATION OF EXAMINATION RESULTS. (a) Not later than the 30th day after the date a person takes a registration examination under this Act, the department shall notify the person of the results of the examination.

(b) If the examination is graded or reviewed by a testing service:

(1) the department shall notify the person of the results of the examination not later than the 14th day after the date the department receives the results from the testing service; and

(2) if notice of the examination results will be delayed for longer than 90 days after the examination date, the department shall notify the person of the reason for the delay before the 90th day.

(c) The department may require a testing service to notify a person of the results of the person's examination.

(d) If requested in writing by a person who fails a registration examination administered under this Act, the department shall furnish the person with an analysis of the person's performance on the examination.

Sec. 7F. RULES REGARDING ADVERTISING OR COMPETITIVE BIDDING BY REGISTRANT. (a) The board may not adopt rules restricting advertising or competitive bidding by a registrant except to prohibit false, misleading, or deceptive practices.

(b) In its rules to prohibit false, misleading, or deceptive practices, the board may not include a rule that:

(1) restricts the use of any medium for advertising;

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

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

(4) restricts the registrant's advertisement under a trade name.

Sec. 7G. CONTINUING EDUCATION. The board shall recognize, prepare, or administer continuing education programs for its registrants. A registrant must participate in the programs to the extent required by the board to keep the person's certificate of registration.

SECTION 18.04. Sections 11 and 12, Chapter 752, Acts of the 69th Legislature, Regular Session, 1985 (Article 4512k, Vernon's Texas Civil Statutes), are amended to read as follows:

Sec. 11. REGISTRATION, DENIAL, PROBATION, SUSPENSION, OR REVOCATION. (a) The board [department] may refuse to issue a registration certificate to an applicant and shall [~~may~~] suspend, [~~or~~] revoke, or refuse to renew a registration certificate, or shall reprimand a registrant [~~may place a registered person, including a massage school, massage therapy instructor, or massage establishment, on probation~~] for any of the following causes:

(1) obtaining a certificate by means of fraud, misrepresentation, or concealment of material facts;

(2) selling, bartering, or offering [~~offer~~] to sell or barter a registration certificate;

(3) violating any rule adopted by the board;

(4) engaging in unprofessional conduct that has endangered or is likely to endanger the health, welfare, or safety of the public as defined by the rules established by the board;

(5) violating a regulation adopted by a political subdivision under Chapter 243, Local Government Code; or

(6) violating any provisions of this Act.

(b) The board may place on probation a person, including a massage school, massage therapy instructor, or massage establishment, whose registration certificate is suspended. If a registration suspension is probated, the board may require the person:

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

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

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

(c) An individual who has been convicted of, entered a plea of nolo contendere or guilty to, or received deferred adjudication to crimes or offenses

involving prostitution or sexual offenses is ineligible for registration as a massage therapist, massage therapy instructor, massage school, or massage establishment. The department shall revoke the registration of a person registered as a massage therapist or massage therapy instructor who is convicted of, enters a plea of nolo contendere or guilty to, or receives deferred adjudication to a crime or offense involving prostitution or other sexual offenses, or who the department determines has practiced or administered massage therapy at or for a sexually oriented business. The department shall revoke the registration of a person registered as a massage school or massage establishment if the department determines that the school or establishment is a sexually oriented business, or that a crime or offense involving prostitution or other sexual offenses and resulting in a conviction, or to which a plea of nolo contendere or guilty was entered or deferred adjudication was received, has occurred on the premises of the school or establishment.

(d) ~~[(c)]~~ A person whose application for registration is denied, who has been reprimanded, or whose registration is suspended or revoked is entitled to a hearing before the department if the person submits a written request to the department. Hearings are governed by department rules for a contested hearing and by Chapter 2001, Government Code ~~[the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes)]~~.

(e) ~~[(d)]~~ A person convicted of a violation of this Act is ineligible for registration as a massage therapist, massage therapy instructor, massage school, or massage establishment for a period of five years.

Sec. 12. RENEWAL OF REGISTRATION. (a) Registration under this Act is subject to periodic renewal and expires unless the registered person submits an application for renewal accompanied by the renewal fee prescribed by the department or by the late fee prescribed by this section.

(b) The department shall adopt a system under which registrations expire and are renewed on various dates of the year. Initial registration fees shall be prorated so that a registered person pays only for that part of the renewal period for which the registration is issued until the expiration date of the registration.

(c) A person who is otherwise eligible to renew a registration may renew an unexpired registration by paying the required renewal fee to the department before the expiration date of the registration. A person whose registration has expired may not engage in activities that require registration until the registration has been renewed.

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

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

(f) A person whose registration has been expired for one year or more may not renew the registration. The person may register by complying with

the requirements and procedures, including the examination requirements, for originally registering.

(g) A person who was registered in this state, moved to another state, and is currently registered or licensed and has been in practice in the other state for the two years preceding the date of application may register without reexamination. The person must pay to the department a fee that is equal to two times the normally required renewal fee for registration.

(h) Not later than the 30th day before the date a person's registration is scheduled to expire, the department shall send written notice of the impending expiration to the person at the person's last known address according to the records of the department. [A person registered under this Act who does not renew registration by the expiration date may renew the registration not later than the first anniversary of the expiration date by meeting the requirements set forth in this section and paying a late penalty fee.

~~[(d) The registration of a person who fails to meet the renewal requirements of this section is void. Such a person must submit a new application, pay the appropriate fees, and meet the current requirements for registration.]~~

ARTICLE 19. STANDARD SUNSET REVIEW PROVISIONS AND
CERTAIN OTHER PROVISIONS APPLICABLE TO STATE REGULATION
INVOLVING EMERGENCY MEDICAL SERVICES

SECTION 19.01. Subchapter A, Chapter 773, Health and Safety Code, is amended by adding Section 773.012 to read as follows:

Sec. 773.012. ADVISORY COUNCIL. (a) The governor shall appoint an advisory council to advise the board regarding matters related to the responsibilities of the board, commissioner, and department under this chapter.

(b) The advisory council is composed of the following 15 members appointed by the governor:

(1) a board-certified emergency physician, appointed from a list of names recommended by a statewide professional association of emergency physicians;

(2) a licensed physician who is an emergency medical services medical director, appointed from a list of names recommended by a statewide professional association of emergency medical services medical directors;

(3) a fire chief for a municipality that provides emergency medical services, appointed from a list of names recommended by a statewide fire chiefs association;

(4) an officer or employee of a private provider of emergency medical services who is involved with the development of a Texas Trauma System, appointed from a list of names recommended by a statewide association of private providers of emergency medical services;

(5) a volunteer who provides emergency medical services, appointed from a list of names recommended by a statewide association of volunteers;

(6) an educator in the field of emergency medical services;

(7) a member of an emergency medical services air medical team or unit, appointed from a list of names recommended by a statewide emergency medical services air medical association;

(8) a representative of a fire department that provides emergency medical services, appointed from a list of names recommended by a statewide association of firefighters;

(9) a representative of hospitals who is affiliated with a hospital that is a designated trauma facility in an urban community, appointed from a list of names recommended by a statewide association of hospitals;

(10) a representative of hospitals, who is affiliated with a hospital that is a designated trauma facility in a rural community, appointed from a list of names recommended by a statewide association of hospitals;

(11) a representative of a county provider of emergency medical services;

(12) one licensed physician who is a pediatrician with trauma or emergency care expertise;

(13) one trauma surgeon or one registered nurse with trauma expertise; and

(14) two representatives of the general public who are not qualified to serve under another subdivision of this subsection.

(c) A person may not be a public member of the advisory council if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in the field of emergency medical services;

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

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the department; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the department other than reimbursement authorized by law for advisory council membership, attendance, or expenses.

(d) In this subsection, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest. A person may not be a member of the advisory council if:

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

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

(e) A person may not be a member of the advisory council if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department.

(f) Members of the advisory council serve staggered six-year terms with the terms of five members expiring January 1 of each even-numbered year. A vacancy on the advisory council is filled in the same manner as the original appointment for the unexpired term.

(g) The governor shall appoint the presiding officer of the advisory council.

(h) A member of the advisory council serves without compensation. Chapter 2110, Government Code, does not apply to the size, composition, or duration of the advisory council.

(i) The advisory council shall meet at least quarterly in the city of Austin. The advisory council shall meet as provided by procedural rules adopted by the advisory council or at the call of the presiding officer. The advisory council may appoint committees it considers necessary to perform its duties.

(j) The advisory council periodically shall review board rules relating to this chapter and may recommend changes in those rules to the board. The board and the commissioner shall ensure that the advisory council is given adequate time and opportunity to review and comment on each rule proposed for adoption by the board under this chapter, including the amendment or repeal of an existing rule, but not including an emergency rule.

SECTION 19.02. Section 773.050, Health and Safety Code, is amended by amending Subsection (b) and adding Subsection (f) to read as follows:

(b) The board by rule shall establish minimum standards for:

(1) staffing an advanced life-support emergency medical services vehicle, a mobile intensive-care unit, or a specialized emergency medical services vehicle;

(2) emergency medical services personnel certification and performance, including provisional certification, certification, decertification, recertification, suspension, emergency suspension, and probation;

(3) the approval of courses and training programs, the certification of program instructors, examiners, and course coordinators for emergency medical services personnel training, and the revocation and probation of an approval or certification;

(4) ~~continuing education programs and~~ examinations of emergency medical services personnel;

(5) medical supervision of basic and advanced life-support systems;

(6) granting, suspending, and revoking a license for emergency medical services providers; and

(7) emergency medical services vehicles.

(f) The board shall recognize, prepare, or administer continuing education programs for certified personnel. A certificate holder must participate in the programs to the extent required by the board to remain certified.

SECTION 19.03. Subchapter C, Chapter 773, Health and Safety Code, is amended by adding Section 773.0505 to read as follows:

Sec. 773.0505. RULES REGARDING ADVERTISING OR COMPETITIVE BIDDING. (a) The board may not adopt rules restricting advertising or competitive bidding by a license or certificate holder except to prohibit false, misleading, or deceptive practices.

(b) In its rules to prohibit false, misleading, or deceptive practices, the board may not include a rule that:

(1) restricts the use of any medium for advertising;

(2) restricts the use of a license or certificate holder's personal appearance or voice in an advertisement;

(3) relates to the size or duration of an advertisement by the license or certificate holder; or

(4) restricts the license or certificate holder's advertisement under a trade name.

SECTION 19.04. Section 773.055, Health and Safety Code, is amended by adding Subsections (g) and (h) to read as follows:

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

(h) The department shall ensure that the written examinations and any other tests that the department requires a person to take and pass to obtain or retain certification as emergency medical services personnel shall be administered during the course of a year at various locations around the state so that a person who resides in any part of the state will be able to take the examinations or tests without having to travel a distance that as a practical matter requires either travel by air or an overnight stay.

SECTION 19.05. Section 773.059, Health and Safety Code, is amended to read as follows:

Sec. 773.059. LATE RECERTIFICATION. (a) A person who is otherwise eligible to renew a certificate may renew an unexpired certificate by paying the required renewal fee to the department before the expiration date of the certificate. A person whose certificate has expired may not engage in activities that require certification until the certificate has been renewed.

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

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

(d) A person whose certificate has been expired for one year or more may not renew the certificate. The person may become certified by complying with the requirements and procedures, including the examination requirements, for an original certification.

(e) A person who was certified in this state, moved to another state, and is currently certified or licensed and has been in practice in the other state for the two years preceding the date of application may become certified without reexamination. The person must pay to the department a fee that is equal to two times the normally required renewal fee for certification.

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

(g) [Except as provided by Subsection (b), a person applying for recertification whose application is received after the expiration date of the person's certificate must pay a late fee of \$25.

[(b)] A person certified by the department who is deployed in support of military, security, or other action by the United Nations Security Council, a

national emergency declared by the president of the United States, or a declaration of war by the United States Congress is eligible for recertification under Section 773.050 on the person's demobilization for one calendar year after the date of demobilization.

SECTION 19.06. Section 773.061, Health and Safety Code, is amended to read as follows:

Sec. 773.061. DISCIPLINARY ACTIONS. (a) For a violation of this chapter or a rule adopted under this chapter, the department shall revoke, suspend, or refuse to renew a license or certificate of or shall reprimand ~~[may]~~:

(1) ~~[decertify, suspend, place on emergency suspension, or place on probation]~~ emergency medical services personnel;

(2) ~~[revoke or place on probation course or training program approval;~~

~~[(3) revoke, suspend, or place on probation the certificate of]~~ a program instructor, examiner, or course coordinator; and

(3) ~~[(4) revoke, suspend, or place on probation]~~ an emergency medical services provider license holder.

(b) For a violation of this chapter or a rule adopted under this chapter, the department shall revoke, suspend, or refuse to renew approval of a course or training program.

(c) For a violation of this chapter or a rule adopted under this chapter, the department may place on emergency suspension emergency medical services personnel.

(d) The department may place on probation a course or training program or a person, including emergency medical services personnel, an emergency medical services provider license holder, or a program instructor, examiner, or course coordinator, whose certificate, license, or approval is suspended. If a suspension is probated, the department may require the person or the sponsor of a course or training program, as applicable:

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

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

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

(e) Except as provided by Section 773.062, the procedures by which the department takes action under this section and the procedures by which that action is appealed are governed by the procedures for a contested case hearing under Chapter 2001, Government Code.

SECTION 19.07. Sections 773.122(a), (c), (d), and (f), Health and Safety Code, are amended to read as follows:

(a) The commissioner, with advice and counsel from the chairpersons of the trauma service area regional advisory councils, shall use money in the emergency medical services and trauma care system fund established under Section 773.121 to fund ~~[county and]~~ regional emergency medical services and trauma care systems in accordance with this section.

(c) In any fiscal year the commissioner shall use at least 70 percent of

the appropriated money remaining in the emergency medical services and trauma care system fund, after any amount necessary to maintain the reserve established by Subsection (b) is deducted, to fund, in connection with an effort to provide coordination with the appropriate trauma service [support] area, the cost of supplies, operational expenses, education and training, equipment, vehicles, and communications systems for local emergency medical services. The money shall be distributed on behalf of eligible recipients in each county to the trauma service area regional advisory council for that county, if the regional advisory council is incorporated as an entity that is exempt from federal income tax under Section 501(a), Internal Revenue Code of 1986, and its subsequent amendments, by being listed as an exempt organization under Section 501(c)(3) of the code. For a county for which the regional advisory council is not incorporated as such an entity, the money shall be distributed to the county ~~[to counties]~~ on behalf of eligible recipients. The ~~[A county's]~~ share of the money allocated to the eligible recipients in a county's geographic area shall be based on the relative geographic size and population of the county and on the relative number of emergency or trauma care runs performed by eligible recipients in the county. Money that is not disbursed by a regional advisory council or a county to eligible recipients for approved functions by the end of the fiscal year in which the funds were disbursed ~~[to the county]~~ shall be returned to the fund to be used in accordance with Subsection (f).

(d) In any fiscal year, the commissioner may use not more than 25 percent of the appropriated money remaining in the emergency medical services and trauma care system fund, after any amount necessary to maintain the reserve established by Subsection (b) is deducted, for operation of the 22 trauma service [support] areas and for equipment, communications, and education and training for the areas. Money distributed under this subsection shall be distributed on behalf of eligible recipients in each county to the trauma service area regional advisory council for that county, if the regional advisory council is incorporated as an entity that is exempt from federal income tax under Section 501(a), Internal Revenue Code of 1986, and its subsequent amendments, by being listed as an exempt organization under Section 501(c)(3) of the code. For a county for which the regional advisory council is not incorporated as such an entity, the money shall be distributed to the county in which the chairperson of an area's regional advisory council sits on behalf of eligible recipients. A regional advisory council's share of money distributed under this section shall be based on the relative geographic size and population of each trauma service [support] area and on the relative amount of trauma care provided. Money that is not disbursed by a regional advisory council or county to eligible recipients for approved functions by the end of the fiscal year in which the funds were disbursed ~~[to the county]~~ shall be returned to the fund to be used in accordance with Subsection (f).

(f) In any fiscal year, the commissioner shall use at least two percent of the appropriated money remaining in the emergency medical services and trauma care system fund after any amount necessary to maintain the reserve established by Subsection (b) is deducted and the money in the fund not

otherwise distributed under this section to fund a portion of the uncompensated trauma care provided at facilities designated as state trauma facilities by the department. A regional advisory council chairperson may petition the department for disbursement of funds to a trauma center in the chairperson's trauma service ~~[support]~~ area that has suffered deleterious effects due to uncompensated trauma care. Funds may be disbursed under this subsection based on a proportionate share of uncompensated trauma care provided in the state and may be used to fund innovative projects to enhance the delivery of patient care in the overall emergency medical services and trauma care system.

SECTION 19.08. Sections 773.123(a) and (b), Health and Safety Code, are amended to read as follows:

(a) Except as provided by Subsection (b), money distributed from the emergency medical services and trauma care system fund shall be used in accordance with Section 773.122 on the authorization of:

(1) the executive committee of the trauma service area regional advisory council, in those regions where the money is distributed on behalf of eligible recipients to the regional advisory council; and

(2) the chief executive of the county to which the money is disbursed on vouchers issued by the county's treasurer.

(b) In a county with a population of 291,000 or more for which[-] money distributed from the emergency medical services and trauma care system fund is not distributed to a trauma service area regional advisory council, the money shall be used in accordance with Section 773.122 on the joint authorization of the chief executive of the county to which the money is disbursed and the mayor of the principal municipality in that county on vouchers issued by the county's treasurer.

SECTION 19.09. Section 773.124, Health and Safety Code, is amended to read as follows:

Sec. 773.124. LOSS OF FUNDING ELIGIBILITY. For a period of not less than one year or more than three years, as determined by the department, the department may not disburse money under Section 773.122 to a trauma service area regional advisory council, county, municipality, or local recipient that the department finds used money in violation of that section.

SECTION 19.10. Chapter 773, Health and Safety Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. MEDICAL INFORMATION PROVIDED BY CERTAIN
EMERGENCY MEDICAL SERVICES OPERATORS

Sec. 773.141. DEFINITIONS. In this subchapter:

(1) "Emergency call" means a telephone call or other similar communication from a member of the public, as part of a 9-1-1 system or otherwise, made to obtain emergency medical services.

(2) "Emergency medical services operator" means a person who, as a volunteer or employee of a public agency, as that term is defined by Section 771.001, receives emergency calls.

Sec. 773.142. APPLICATION OF SUBCHAPTER. This subchapter does not apply to a physician or other licensed person who may provide medical information under law.

Sec. 773.143. PROVISION OF MEDICAL INFORMATION. An emergency medical services operator may provide medical information to a member of the public during an emergency call if:

(1) the operator has successfully completed an emergency medical services operator training program and holds a certificate issued under Section 773.144; and

(2) the information provided substantially conforms to the protocol for delivery of the information adopted by the board under Section 773.145.

Sec. 773.144. TRAINING PROGRAMS. (a) The department may offer emergency medical services operator training programs and may approve training programs offered by other persons. The board by rule shall establish minimum standards for approval of training programs and certification and decertification of program instructors.

(b) The provider of an emergency medical services operator training program shall issue an emergency medical services operator a certificate evidencing completion of the training program. The board by rule may require that, before issuance of the certificate, the operator successfully complete an examination administered by the board, by the provider of the training program, or by another person.

(c) The board by rule may provide that a certificate issued under Subsection (b) expires at the end of a specified period not less than one year after the date on which the certificate is issued and may adopt requirements, including additional training or examination, for renewal of the certificate.

(d) The board by rule may adopt other requirements relating to emergency medical services operator training programs. The establishment of minimum standards under this section does not prohibit the entity that is employing or accepting the volunteer services of the emergency medical services operator from imposing additional training standards or procedures.

Sec. 773.145. MEDICAL INFORMATION. The board by rule shall adopt a protocol that must be used to provide medical information under Section 773.143. The protocol may include the use of a flash-card system or other similar system designed to make the information readily accessible to the emergency medical services operator in an understandable form.

Sec. 773.146. LIMITATION ON CIVIL LIABILITY. (a) An emergency medical services operator who holds a certificate under Section 773.144 is not liable for damages that arise from the provision of medical information according to the protocol adopted under Section 773.145 if the information is provided in good faith. This subsection does not apply to an act or omission of the operator that constitutes gross negligence, recklessness, or intentional misconduct. This subsection does not affect any liability imposed on a public agency for the conduct of the emergency medical services operator under Section 101.062, Civil Practice and Remedies Code.

(b) Section 101.062, Civil Practice and Remedies Code, governs the liability of a public agency the employees or volunteers of which provide medical information under this subchapter.

Sec. 773.147. FEES. (a) The board by rule may adopt fees for:

(1) training programs provided by the board under Section 773.144; and

(2) the approval of program instructors and of training programs offered by other persons.

(b) The fees adopted under this section may not exceed the amount necessary for the department to recover the cost of administering this subchapter.

SECTION 19.11. The Texas Board of Health shall abolish any advisory body created by rule to perform the functions assigned to the advisory council created by Section 773.012, Health and Safety Code, as added by this Act.

SECTION 19.12. The change in law made by this Act to Sections 773.122, 773.123, and 773.124, Health and Safety Code, applies only to distributions made from the emergency medical services and trauma care system fund established under Section 773.121, Health and Safety Code, that are made on or after that date. Distributions from the fund that are made before the effective date of this Act are governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

SECTION 19.13. (a) Subchapter F, Chapter 773, Health and Safety Code, as added by this Act, applies only to the provision of medical information by an emergency medical services operator, as that term is defined by Section 773.141, Health and Safety Code, as added by this Act, on or after January 1, 2000. The provision of medical information before January 1, 2000, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

(b) The Texas Board of Health shall adopt rules necessary for the implementation of Subchapter F, Chapter 773, Health and Safety Code, as added by this Act, not later than December 1, 1999.

ARTICLE 20. STANDARD SUNSET REVIEW PROVISIONS APPLICABLE TO THE REGULATION OF CERTAIN ASBESTOS-RELATED ACTIVITIES

SECTION 20.01. The Texas Asbestos Health Protection Act (Article 4477-3a, Vernon's Texas Civil Statutes) is amended by adding Section 5A to read as follows:

Sec. 5A. PROVISIONAL LICENSE OR REGISTRATION. (a) The department may provisionally license or register an applicant currently licensed or registered in another jurisdiction who seeks a license or registration in this state and who:

(1) has been licensed or registered in good standing to perform the relevant asbestos-related activity for at least two years in another jurisdiction, including a foreign country, that has licensing or registration requirements substantially equivalent to the requirements of this Act;

(2) has passed a national or other examination recognized by the department relating to the relevant asbestos-related activity, if the department requires an examination under Subsection (h) of Section 10 of this Act to obtain the license or registration required to perform that activity; and

(3) is sponsored by a person licensed by the department under this Act with whom the provisional license or registration holder will practice during the time the person holds a provisional license or registration.

(b) The department may waive the requirement of Subsection (a)(3) for an applicant if the department determines that compliance with that subsection would be a hardship to the applicant.

(c) A provisional license or registration is valid until the date the department approves or denies the provisional license or registration holder's application for licensing or registration. The department shall issue a license or registration under this Act to the provisional license or registration holder if:

(1) the provisional license or registration holder is eligible to be licensed or registered under Subsection (j) of Section 12 of this Act; or

(2) the provisional license or registration holder passes the part of the examination under Subsection (h) of Section 10 of this Act that relates to the applicant's knowledge and understanding of the laws and rules relating to the performance of the relevant asbestos-related activity in this state, if the department requires an examination under Subsection (h) of Section 10 of this Act to obtain the license or registration required to perform that activity, and:

(A) the department verifies that the provisional license or registration holder meets the relevant academic and experience requirements for the requested license or registration under this Act; and

(B) the provisional license or registration holder satisfies any other applicable licensing or registration requirements under this Act.

(d) The department must approve or deny a provisional license or registration holder's application for a license or registration not later than the 180th day after the date the provisional license or registration is issued. The department may extend the 180-day period if the results of an examination have not been received by the department before the end of that period.

(e) The department may establish a fee for a provisional license or registration in an amount reasonable and necessary to cover the cost of issuing the license or registration.

SECTION 20.02. Section 6, Texas Asbestos Health Protection Act (Article 4477-3a, Vernon's Texas Civil Statutes), is amended by amending Subsections (a) and (f) and adding Subsections (g)-(k) to read as follows:

(a) A license issued under this Act expires on the first anniversary of its effective date, unless the license is renewed for a one-year term as provided by this section. The department by rule may adopt a system under which licenses expire on various dates during the year. For the year in which the license expiration date is changed, the department shall prorate license fees on a monthly basis so that each license holder pays only that portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

(f) A licensee may request a replacement license certificate on completion of an appropriate application. [~~The fee for reissuance shall not exceed \$50.~~]

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

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

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

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

(k) A person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date of application may obtain a new license without reexamination. The person must pay to the department a fee that is equal to two times the normally required renewal fee for the license.

SECTION 20.03. Section 8, Texas Asbestos Health Protection Act (Article 4477-3a, Vernon's Texas Civil Statutes), is amended by amending Subsection (a) and adding Subsection (g) to read as follows:

(a) After notice to the licensee and an opportunity for a hearing, the department shall ~~may~~ reprimand the licensee or modify, suspend, suspend on an emergency basis, or revoke a license under this Act if an act or omission of the licensee meets the criteria prescribed by the board under Subsection (c) of this section.

(g) The department may place on probation a person whose license is suspended. If a suspension is probated, the department may require the person:

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

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

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

SECTION 20.04. Section 9, Texas Asbestos Health Protection Act (Article 4477-3a, Vernon's Texas Civil Statutes), is amended by amending Subsections (b) and (h) and adding Subsection (j) to read as follows:

(b) An application for registration or renewal as an asbestos worker must be made on a form provided by the department. An application for registration ~~or reregistration~~ must be accompanied by a nonrefundable fee set by the board in an amount not to exceed \$50.

(h) After notice to the registrant and an opportunity for a hearing in accordance with Section 11 of this Act, the department shall ~~may~~ reprimand any registered worker or suspend, suspend on an emergency basis, ~~or~~ revoke, or refuse to renew any registration if the worker:

(1) has fraudulently or deceptively assigned, obtained, or attempted to assign or obtain a registration or renewal; or

(2) fails to comply with federal, state, or local asbestos law or rule or with any order issued by the board or department.

(j) The department may place on probation a person whose registration is suspended. If a suspension is probated, the department may require the person:

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

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

(3) to continue or review professional education until the person

attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.

SECTION 20.05. The Texas Asbestos Health Protection Act (Article 4477-3a, Vernon's Texas Civil Statutes) is amended by adding Section 10A to read as follows:

Sec. 10A. NOTIFICATION OF EXAMINATION RESULTS. (a) Not later than the 30th day after the date a person takes a licensing or registration examination under this Act, the department shall notify the person of the results of the examination.

(b) If the examination is graded or reviewed by a testing service:

(1) the department shall notify the person of the results of the examination not later than the 14th day after the date the department receives the results from the testing service; and

(2) if notice of the examination results will be delayed for longer than 90 days after the examination date, the department shall notify the person of the reason for the delay before the 90th day.

(c) The department may require a testing service to notify a person of the results of the person's examination.

(d) If requested in writing by a person who fails a licensing or registration examination administered under this Act, the department shall furnish the person with an analysis of the person's performance on the examination.

SECTION 20.06. The Texas Asbestos Health Protection Act (Article 4477-3a, Vernon's Texas Civil Statutes) is amended by adding Section 12A to read as follows:

Sec. 12A. RULES REGARDING ADVERTISING OR COMPETITIVE BIDDING. (a) The board may not adopt rules restricting advertising or competitive bidding by a license or registration holder except to prohibit false, misleading, or deceptive practices.

(b) In its rules to prohibit false, misleading, or deceptive practices, the board may not include a rule that:

(1) restricts the use of any medium for advertising;

(2) restricts the use of a license or registration holder's personal appearance or voice in an advertisement;

(3) relates to the size or duration of an advertisement by the license or registration holder; or

(4) restricts the license or registration holder's advertisement under a trade name.

ARTICLE 21. STANDARD SUNSET REVIEW PROVISIONS APPLICABLE TO THE

REGULATION OF CERTAIN LEAD-BASED PAINT ACTIVITIES

SECTION 21.01. Chapter 332, Acts of the 74th Legislature, Regular Session, 1995 (Article 9029, Vernon's Texas Civil Statutes), is amended by adding Sections 3A and 3B to read as follows:

Sec. 3A. NOTIFICATION OF EXAMINATION RESULTS. (a) Not later than the 30th day after the date a person takes any certification or accreditation examination under this Act, the department shall notify the person of the results of the examination.

(b) If an examination is graded or reviewed by a testing service:

(1) the department shall notify the person of the results of the examination not later than the 14th day after the date the department receives the results from the testing service; and

(2) if notice of the examination results will be delayed for longer than 90 days after the examination date, the department shall notify the person of the reason for the delay before the 90th day.

(c) The department may require a testing service to notify a person of the results of the person's examination.

(d) If requested in writing by a person who fails a certification or accreditation examination administered under this Act, the department shall furnish the person with an analysis of the person's performance on the examination.

Sec. 3B. RULES REGARDING ADVERTISING OR COMPETITIVE BIDDING. (a) The Texas Board of Health may not adopt rules restricting advertising or competitive bidding by a certified or accredited person except to prohibit false, misleading, or deceptive practices.

(b) In its rules to prohibit false, misleading, or deceptive practices, the board may not include a rule that:

(1) restricts the use of any medium for advertising;

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

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

(4) restricts the certified or accredited person's advertisement under a trade name.

SECTION 21.02. Chapter 332, Acts of the 74th Legislature, Regular Session, 1995 (Article 9029, Vernon's Texas Civil Statutes), is amended by adding Sections 6A, 6B, and 6C to read as follows:

Sec. 6A. EXPIRATION DATES OF CERTIFICATION OR ACCREDITATION. The Texas Board of Health by rule may adopt a system under which certifications or accreditations expire on various dates during the year. For the year in which the expiration date is changed, the department shall prorate certification or accreditation fees on a monthly basis so that each certified or accredited person pays only that portion of the certification or accreditation fee that is allocable to the number of months during which the certification or accreditation is valid. On renewal of the certification or accreditation on the new expiration date, the total certification or accreditation renewal fee is payable.

Sec. 6B. RENEWAL OF CERTIFICATION OR ACCREDITATION. (a) A person who is otherwise eligible to renew a certification or accreditation may renew an unexpired certification or accreditation by paying the required renewal fee to the department before the expiration date of the certification or accreditation. A person whose certification or accreditation has expired may not engage in activities that require certification or accreditation until the certification or accreditation has been renewed.

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

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

(d) A person whose certification or accreditation has been expired for one year or more may not renew the certification or accreditation. The person may become recertified or reaccredited by complying with the requirements and procedures, including any examination requirements, for an original certification or accreditation.

(e) A person who was certified or accredited in this state, moved to another state, and is currently certified or accredited and has been in practice in the other state for the two years preceding the date of application may become recertified or reaccredited without reexamination. The person must pay to the department a fee that is equal to two times the normally required renewal fee for certification or accreditation.

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

Sec. 6C. DISCIPLINARY ACTIONS. (a) The department shall revoke, suspend, or refuse to renew a certification or accreditation or shall reprimand a certified or accredited person for a violation of this Act or a rule of the board.

(b) The board may place on probation a person whose certification or accreditation is suspended. If a suspension is probated, the board may require the person:

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

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

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

ARTICLE 22. CERTAIN PROVISIONS RELATING TO ABORTION FACILITIES

SECTION 22.01. Section 245.004, Health and Safety Code, is amended to read as follows:

Sec. 245.004. EXEMPTIONS FROM LICENSING REQUIREMENT. (a) The following facilities need not be licensed under this chapter:

(1) a hospital licensed under Chapter 241 (Texas Hospital Licensing Law); or

(2) the office of a physician licensed under the Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), unless the office is used [primarily] for the purpose of performing more than 300 abortions in any 12-month period.

(b) In computing the number of abortions performed in the office of a physician under Subsection (a)(2), an abortion performed in accordance with Section 245.016 is not included.

SECTION 22.02. Section 245.014(b), Health and Safety Code, is amended to read as follows:

(b) An offense under this section is a Class A [C] misdemeanor.

SECTION 22.03. Section 245.016, Health and Safety Code, is amended to read as follows:

Sec. 245.016. ABORTION IN UNLICENSED ABORTION FACILITY TO PREVENT DEATH OR SERIOUS IMPAIRMENT. This chapter does not remove the responsibility or limit the ability of a physician to perform an abortion in an unlicensed abortion facility if, at the commencement of the abortion, the physician reasonably believes that the abortion is necessary to prevent the death of the patient or to prevent serious impairment of the patient's physical health [~~or mental condition~~].

SECTION 22.04. The office of a physician that is exempt from the licensing requirement of Chapter 245, Health and Safety Code, under Section 245.004, Health and Safety Code, as it existed immediately before the effective date of this Act, but that is required to be licensed under Section 245.004, Health and Safety Code, as amended by this Act, is not required to be licensed before January 1, 2000.

SECTION 22.05. (a) The change in law made by this article to Section 245.014, Health and Safety Code, applies only to the punishment for 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 22.06. (a) The change in law made by Section 245.016, Health and Safety Code, as amended by this article, applies only to the punishment for 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.

ARTICLE 23. CERTAIN PROVISIONS RELATING TO CANCER REGISTRIES

SECTION 23.01. Section 82.008(e), Health and Safety Code, is amended to read as follows:

(e) The data required to be furnished under this section may also be furnished only to:

- (1) cancer registries of hospitals; and
- (2) cancer registries of cancer treatment centers.

SECTION 23.02. Section 82.009(d), Health and Safety Code, is amended to read as follows:

(d) Data furnished to a hospital cancer registry or a cancer treatment center cancer registry under Section 82.008(e) is for the confidential use of the hospital cancer registry or the cancer treatment center cancer registry, as applicable, and is subject to Subsection (a).

SECTION 23.03. Section 161.021(a), Health and Safety Code, is amended to read as follows:

(a) Unless prohibited by other law, a person, including a hospital, sanatorium, nursing home, rest home, medical society, cancer registry, or other organization, may provide interviews, reports, statements, memoranda, or other information relating to the condition and treatment of any person, to be used in a study to reduce morbidity or mortality or to identify persons who may need immunization, to:

- (1) the department;
- (2) a person that makes inquiries under immunization surveys conducted for the department;
- (3) a medical organization;
- (4) a hospital;
- (5) a hospital committee; or
- (6) a cancer registry, including a cancer registry of a cancer treatment center as defined by Section 82.002.

ARTICLE 24. CERTAIN EDUCATION PROGRAMS FOR MINORS

SECTION 24.01. Section 85.007, Health and Safety Code, is amended by adding Subsection (c) to read as follows:

(c) In addition, the materials in the education program intended for persons younger than 18 years of age must:

- (1) teach that sexual activity before marriage is likely to have harmful psychological and physical consequences;
- (2) teach adolescents ways to recognize and respond to unwanted physical and verbal sexual advances;
- (3) teach that the use of alcohol or drugs increases a person's vulnerability to unwanted sexual advances; and
- (4) emphasize the importance of attaining self-sufficiency before engaging in sexual activity.

ARTICLE 25. CERTAIN PROVISIONS RELATING TO THE PREVENTION OF CARDIOVASCULAR DISEASE AND STROKE

SECTION 25.01. Subtitle D, Title 2, Health and Safety Code, is amended by adding Chapter 93 to read as follows:

CHAPTER 93. PREVENTION OF CARDIOVASCULAR DISEASE AND STROKE SUBCHAPTER A. GENERAL PROVISIONS

Sec. 93.001. DEFINITIONS. In this chapter:

- (1) "Cardiovascular disease" means the group of diseases that target the heart and blood vessels and that are the result of complex interactions between multiple inherited traits and environmental factors.
- (2) "Council" means the Council on Cardiovascular Disease and Stroke.

Sec. 93.002. APPOINTMENT OF COUNCIL; TERMS OF MEMBERS. (a) The Council on Cardiovascular Disease and Stroke is composed of 12 members appointed by the board.

(b) Members of the council serve staggered six-year terms with the terms of one-third of the members expiring February 1 of each odd-numbered year.

Sec. 93.003. COMPENSATION; REIMBURSEMENT. (a) A member of the council may not receive compensation for service on the council and, except as provided by Subsection (b), may not be reimbursed for travel expenses incurred while conducting the business of the council.

(b) The commissioner may authorize reimbursement of the travel expenses incurred by a member while conducting the business of the council, as provided in the General Appropriations Act, if the commissioner finds on application of the member that travel for council business imposes a financial hardship on the member.

Sec. 93.004. DUTIES OF DEPARTMENT; FUNDS. The department shall accept funds appropriated for the purposes of this chapter and shall allocate those funds. The council shall make recommendations to the department concerning the allocation of funds.

Sec. 93.005. CONSULTANTS; ADVISORY COMMITTEE. To advise and assist the council with respect to the council's duties under this chapter, the council may appoint one or more:

(1) consultants to the council; or

(2) advisory committees under Chapter 2110, Government Code.

Sec. 93.006. REPORT TO BOARD AND LEGISLATURE. (a) Not later than January 15 of each year, the council shall report to the board on the activities of the council in the preceding calendar year.

(b) Not later than January 15 of each odd-numbered year, the council shall report to the lieutenant governor and the speaker of the house of representatives on the activities of the council in the preceding two calendar years.

[Sections 93.007-93.050 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF COUNCIL

Sec. 93.051. CARDIOVASCULAR DISEASE AND STROKE PREVENTION PLAN; DUTIES OF COUNCIL. The council shall develop an effective and resource-efficient plan to reduce the morbidity, mortality, and economic burden of cardiovascular disease and stroke in this state. The council shall:

(1) conduct health education, public awareness, and community outreach activities that relate to cardiovascular disease and stroke;

(2) promote, enhance, and coordinate health education, public awareness, and community outreach activities that relate to cardiovascular disease and stroke and that are provided by private and other public organizations;

(3) coordinate activities with other entities that are concerned with medical conditions that are similar to cardiovascular disease and stroke or that have similar risk factors;

(4) identify to health care providers, employers, schools, community health centers, and other groups the benefits of encouraging treatment, prevention, and public awareness of cardiovascular disease and stroke and recognize innovative and effective programs that achieve the objectives of improved treatment, prevention, and public awareness;

(5) provide guidance regarding the roles and responsibilities of government agencies, health care providers, employers, third-party payers, patients, and families of patients in the treatment, prevention, and public awareness of cardiovascular disease and stroke;

(6) improve access to treatment for and prevention of cardiovascular disease and stroke through public awareness programs, including access for uninsured individuals and individuals living in rural or underserved areas;

(7) assist communities to develop comprehensive local cardiovascular disease and stroke prevention programs;

(8) assist the Texas Education Agency and local school districts to promote a public school curriculum that includes physical, nutritional, and health education relating to cardiovascular disease and stroke prevention; and

(9) evaluate and enhance the implementation and effectiveness of the program developed under this chapter.

Sec. 93.052. DATABASE OF CLINICAL RESOURCES. The council shall review available clinical resources and shall develop a database of recommendations for appropriate care and treatment of patients with cardiovascular disease or who have suffered from or are at risk for stroke. The council shall make the database accessible to the public.

Sec. 93.053. CARDIOVASCULAR DISEASE AND STROKE DATABASE.
(a) The council shall collect and analyze information related to cardiovascular disease and stroke at the state and regional level and, to the extent feasible, at the local level. The council shall obtain the information from federal and state agencies and from private and public organizations. The council shall maintain a database of this information.

(b) The database may include:

(1) information related to behavioral risk factors identified for cardiovascular disease and stroke;

(2) morbidity and mortality rates for cardiovascular disease and stroke; and

(3) community indicators relevant to cardiovascular disease and stroke.

(c) In compiling the database, the council may use information available from other sources, such as the Behavioral Risk Factor Surveillance System established by the Centers for Disease Control and Prevention, reports of hospital discharge data, and information included in death certificates.

Sec. 93.054. INFORMATION RECEIVED FROM ANOTHER STATE AGENCY; CONFIDENTIALITY. (a) To perform its duties under this chapter, the council may request and receive information in the possession of any state agency. In addition to the restriction imposed by Subsection (b), information provided to the council under this subsection is subject to any restriction on disclosure or use of the information that is imposed by law on the agency from which the council obtained the information.

(b) Information in the possession of the council that identifies a patient or that is otherwise confidential under law is confidential, is excepted from required public disclosure under Chapter 552, Government Code, and may not be disclosed for any purpose.

SECTION 25.02. In appointing the initial members of the Council on Cardiovascular Disease and Stroke, the Texas Board of Health shall appoint four persons to terms expiring February 1, 2001; four to terms expiring February 1, 2003; and four to terms expiring February 1, 2005.

ARTICLE 26. BLOODBORNE PATHOGEN CONTROL

SECTION 26.01. Chapter 81, Health and Safety Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. BLOODBORNE PATHOGEN EXPOSURE CONTROL PLAN

Sec. 81.301. DEFINITIONS. In this subchapter:

(1) "Bloodborne pathogens" means pathogenic microorganisms that are present in human blood and that can cause diseases in humans. The term includes hepatitis B virus, hepatitis C virus, and human immunodeficiency virus.

(2) "Engineered sharps injury protection" means:

(A) a physical attribute that is built into a needle device used for withdrawing body fluids, accessing a vein or artery, or administering medications or other fluids and that effectively reduces the risk of an exposure incident by a mechanism such as barrier creation, blunting, encapsulation, withdrawal, retraction, destruction, or another effective mechanism; or

(B) a physical attribute built into any other type of needle device, into a nonneedle sharp, or into a nonneedle infusion safety securement device that effectively reduces the risk of an exposure incident.

(3) "Governmental unit" means:

(A) this state and any agency of the state, including a department, bureau, board, commission, or office;

(B) a political subdivision of this state, including any municipality, county, or special district; and

(C) any other institution of government, including an institution of higher education.

(4) "Needleless system" means a device that does not use a needle and that is used:

(A) to withdraw body fluids after initial venous or arterial access is established;

(B) to administer medication or fluids; or

(C) for any other procedure involving the potential for an exposure incident.

(5) "Sharp" means an object used or encountered in a health care setting that can be reasonably anticipated to penetrate the skin or any other part of the body and to result in an exposure incident, including a needle device, a scalpel, a lancet, a piece of broken glass, a broken capillary tube, an exposed end of a dental wire, or a dental knife, drill, or bur.

(6) "Sharps injury" means any injury caused by a sharp, including a cut, abrasion, or needlestick.

Sec. 81.302. APPLICABILITY OF SUBCHAPTER. This subchapter applies only to a governmental unit that employs employees who:

(1) provide services in a public or private facility providing health care-related services, including a home health care organization; or

(2) otherwise have a risk of exposure to blood or other material potentially containing bloodborne pathogens in connection with exposure to sharps.

Sec. 81.303. EXPOSURE CONTROL PLAN. The department shall establish an exposure control plan designed to minimize exposure of employees described by Section 81.302 to bloodborne pathogens. In developing the plan, the department must consider:

(1) policies relating to occupational exposure to bloodborne pathogens;

- (2) training and educational requirements for employees;
- (3) measures to increase vaccinations of employees; and
- (4) increased use of personal protective equipment by employees.

Sec. 81.304. MINIMUM STANDARDS. The board by rule shall adopt minimum standards to implement the exposure control plan and the other provisions of this subchapter. The rules shall be analogous to standards adopted by the federal Occupational Safety and Health Administration. Each governmental unit shall comply with the minimum standards adopted under this subchapter.

Sec. 81.305. NEEDLELESS SYSTEMS. (a) The board by rule shall recommend that governmental units implement needleless systems and sharps with engineered sharps injury protection for employees.

(b) The recommendation adopted under Subsection (a) does not apply to the use of a needleless system or sharps with engineered sharps injury protection in circumstances and in a year in which an evaluation committee has established that the use of needleless systems and sharps with engineered sharps injury protection will jeopardize patient or employee safety with regard to a specific medical procedure or will be unduly burdensome. A report of the committee's decision shall be submitted to the department annually.

(c) At least half of the members of an evaluation committee established by a governmental unit to implement Subsection (b) must be employees who are health care workers who have direct contact with patients or provide services on a regular basis.

(d) The rules adopted under Subsection (a) may not prohibit the use of a prefilled syringe that is approved by the federal Food and Drug Administration. This subsection expires May 1, 2003.

Sec. 81.306. SHARPS INJURY LOG. (a) The board by rule shall require that information concerning exposure incidents be recorded in a written or electronic sharps injury log to be maintained by a governmental unit. This information must be reported to the department and must include:

- (1) the date and time of the exposure incident;
- (2) the type and brand of sharp involved in the exposure incident;

and

- (3) a description of the exposure incident, including:

- (A) the job classification or title of the exposed employee;
- (B) the department or work area where the exposure incident

occurred;

(C) the procedure that the exposed employee was performing at the time of the incident;

- (D) how the incident occurred;

(E) the employee's body part that was involved in the exposure incident; and

(F) whether the sharp had engineered sharps injury protection and, if so, whether the protective mechanism was activated and whether the injury occurred before, during, or after the activation of the protective mechanism.

(b) Information regarding which recommendations under Section 81.305(a) were adopted by the governmental entity shall be included in the log.

(c) All information and materials obtained or compiled by the department in connection with a report under this section are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release by the department. The department shall make available, in aggregate form, the information described in Section 81.305(b) and this section, provided that the name and other information identifying the facility is deleted and the information is provided according to public health regions established by the department.

Sec. 81.307. DEVICE REGISTRATION. (a) The department, in accordance with rules adopted by the board, shall implement a registration program for existing needleless systems and sharps with engineered sharps injury protection.

(b) The department shall compile and maintain a list of existing needleless systems and sharps with engineered sharps injury protection that are available in the commercial marketplace and registered with the department to assist governmental units to comply with this subchapter.

(c) The department shall charge a fee to register a device in an amount established by the board. The fees collected under this section may be appropriated only to the department to implement this subchapter.

SECTION 26.02. (a) The Texas Board of Health shall adopt the exposure control plan and the rules required by Subchapter H, Chapter 81, Health and Safety Code, as added by this Act, not later than September 1, 2000.

(b) Except as provided by Subsection (c) of this section, a governmental unit, as defined by Subdivision (3), Section 81.301, Health and Safety Code, as added by this Act, shall comply with Subchapter H, Chapter 81, Health and Safety Code, as added by this Act, not later than January 1, 2001.

(c) The Texas Department of Health may, in accordance with rules adopted by the Texas Board of Health, waive the application of Subchapter H, Chapter 81, Health and Safety Code, as added by this Act, to a rural county if the department finds that the application of the subchapter to the county would be unduly burdensome. A waiver granted under this subsection expires December 31, 2001. For purposes of this subsection, "rural county" means a county that:

- (1) has a population of 50,000 or less; or
- (2) has a population of more than 50,000 but:

(A) does not have located within the county a general or special hospital licensed under Chapter 241, Health and Safety Code, with more than 100 beds; and

(B) was not, based on the 1990 federal census, completely included within an area designated as urbanized by the Bureau of the Census of the United States Department of Commerce.

SECTION 26.03. In adopting the initial rules establishing the duties of an evaluation committee under Subsection (c), Section 81.305, Health and Safety Code, as added by this Act, the Texas Board of Health shall consider the duties of similar committees in existence on the effective date of this Act.

ARTICLE 27. EFFECTIVE DATE; EMERGENCY

SECTION 27.01. This Act takes effect September 1, 1999.

SECTION 27.02. 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 McCall moved to adopt the conference committee report on **HB 2085**.

The motion prevailed without objection.

**HB 3682 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Gutierrez called up with senate amendments for consideration at this time,

HB 3682, A bill to be entitled An Act relating to authorizing a state agency to waive a matching funds requirement for an economically disadvantaged county.

On motion of Representative Gutierrez, the house concurred in the senate amendments to **HB 3682** by (Record 506): 136 Yeas, 4 Nays, 1 Present, not voting.

Yeas — Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Cuellar; Danburg; Davis, J.; Davis, Y.; Delisi; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hawley; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Siebert; Smith; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Nays — Hartnett; Heflin; Madden; Talton.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Crownover; Jones, D.; Smithee.

Absent — Alexander; Culberson; Denny; Kruse; Shields.

STATEMENTS OF VOTE

When Record No. 506 was taken, my vote failed to register. I would have voted no.

Culberson

When Record No. 506 was taken, I was in the house but away from my desk. I would have voted no.

Shields

Senate Amendment No. 1

Amend **HB 3682** as follows:

Strike all below the enacting clause and replace it with the following:

SECTION 1. Chapter 783, Government Code, is amended by adding Section 783.009 to read as follows:

Sec. 783.009. MATCHING FUND WAIVER FOR ECONOMICALLY DISADVANTAGED COUNTY OR CENSUS TRACT. (a) In this section, "economically disadvantaged county" means a county that has a per capita taxable property tax value that is less than one-half the average per capita taxable property value of counties in the state or, in comparison to other counties in the state, has:

- (1) below average per capita taxable property value;
- (2) below average per capita income; and
- (3) above average unemployment.

(b) In this section, "economically disadvantaged census tract" means a census tract delineated by the U.S. Bureau of the Census in the most recent decennial census in which the median family income is reported by the U.S. Bureau of the Census to be less than 80 percent of the area median family income.

(c) Except as provided by subsection (d), a state agency may, for an economically disadvantaged county or economically disadvantaged census tract, adjust any matching funds requirement that is otherwise a condition for a county to receive a grant or other form of financial assistance from the agency.

(d) This section does not apply to the Texas Transportation Commission or to waivers or adjustments of matching funds requirements granted by the Texas Department of Transportation or governed by subsection (a), Section 222.053, Transportation Code.

(e) Each agency shall include information about its use of waivers or adjustments to matching funds requirements in its annual report. The information shall include the disposition of each instance where a waiver or adjustment is requested or considered.

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.

HB 2186 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Dutton called up with senate amendments for consideration at this time,

HB 2186, A bill to be entitled An Act relating to summary judgments issued by a court.

Representative Clark raised a point of order against further consideration of the senate amendments to **HB 2186** under Rule 11, Section 2 of the House Rules on the grounds that the senate amendments are not germane

The speaker overruled the point of order.

On motion of Representative Dutton, the house concurred in the senate amendments to **HB 2186**. (Christian and Clark recorded voting no)

Senate Amendment No. 1

Amend **HB 2186** as follows:

(1) In SECTION 1, in added Section 40.002, Civil Practice and Remedies Code, (house engrossment, page 1, line 12), strike "WRITTEN FINDINGS REQUIRED." and substitute "WRITTEN FINDINGS REQUIRED; SCOPE OF APPELLATE REVIEW. (a)".

(2) In SECTION 1, in added Section 40.002, Civil Practice and Remedies Code, (house engrossment, page 1, between lines 16 and 17), insert new Subsection (b) to read as follows:

(b) Notwithstanding any other law, any court hearing an appeal from a grant of a motion for summary judgment shall determine the appeal only on the grounds specified in the written findings.

HB 3479 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

Representative Greenberg called up with senate amendments for consideration at this time,

HB 3479, A bill to be entitled An Act relating to liability for sexual exploitation by mental health services providers who are officers or employees of governmental units.

On motion of Representative Greenberg, the house concurred in the senate amendments to **HB 3479**.

Senate Amendment No. 1

Amend **HB 3479** as follows:

(1) Following SECTION 2 of the bill (Senate committee printing, page 1, between lines 61 and 62) insert the following:

SECTION 3. Section 22.011(c), Penal Code, is amended by adding Subdivision (4) to read as follows:

(4) "Mental health services provider" means an individual, licensed or unlicensed, who performs or purports to perform mental health services, including a:

(A) licensed social worker as defined by Section 50.001, Human Resources Code;

(B) chemical dependency counselor as defined by Section 1, Chapter 635, Acts of the 72nd Legislature, Regular Session, 1991 (Article 4512o, Vernon's Texas Civil Statutes);

(C) licensed professional counselor as defined by Section 2, Licensed Professional Counselor Act (Article 4512g, Vernon's Texas Civil Statutes);

(D) licensed marriage and family therapist as defined by Section 2, Licensed Marriage and Family Therapist Act (Article 4512c-1, Vernon's Texas Civil Statutes);

(E) member of the clergy;

(F) psychologist offering psychological services as defined by Section 2, Psychologists' Licensing Act (Article 4512c, Vernon's Texas Civil Statutes); or

(G) special officer for mental health assignment certified under Section 415.037, Government Code.

(4) Following SECTION 4 of the bill (Senate committee printing, page 2, between lines 9 and 10), insert the following appropriately numbered SECTION:

SECTION _____. (a) The change in law made by this Act to Section 22.011, Penal Code, 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 this purpose.

(3) Renumber SECTIONS of the bill appropriately.

Senate Amendment No. 2

Amend **HB 3479** as follows:

(1) Strike SECTION 2 of the bill (Senate committee printing, page 1, lines 44-61) and substitute the following:

SECTION 2. Chapter 81, Civil Practice and Remedies Code, is amended by adding Section 81.010 to read as follows:

Sec. 81.010. INJUNCTIVE RELIEF AGAINST GOVERNMENTAL UNITS.
(a) In this section, "governmental unit" has the meaning assigned by Section 101.001(3)(B).

(b) Subject to Subsection (c), a patient, former patient, or another person acting on behalf of a patient or former patient may bring an action under this section against a governmental unit that is an employer of a mental health services provider, including a special officer for mental health assignment, who commits any conduct described by Section 81.002(1), (2), or (3) in relation to the patient or former patient. In an action brought under this subsection, the patient or former patient may obtain:

(1) an order requiring the governmental unit to discharge the mental health services provider who committed the conduct;

(2) court costs; and

(3) reasonable attorneys fees, as determined by the court.

(c) A patient, former patient, or person acting on behalf of a patient or former patient may not bring an action under Subsection (b) unless, 60 days before the date that action is to be filed, the person notifies the governmental unit in writing of its intention to bring an action under this section. The notice must reasonably describe the facts giving rise to the claim. If, before the 60th day after the date the notice is provided under this section, the

governmental unit discharges the mental health services provider who committed the conduct with respect to which the claim is filed, the person may not bring suit under Subsection (b).

(d) Governmental immunity to suit is waived and abolished only to the extent of the liability created by Subsection (b).

(2) In SECTION 4 of the bill (Senate committee printing, page 2, between lines 9 and 10), following Subsection (b), insert new Subsection (c) to read as follows:

(c) In an action described by Subsection (a)(2) of this section, the person bringing the action is not required to provide notice under Section 81.010(c), Civil Practice and Remedies Code, as added by this Act, before pursuing relief under that section.

**HB 628 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Hope called up with senate amendments for consideration at this time,

HB 628, A bill to be entitled An Act relating to the creation of the offense of failing to stop or report the aggravated sexual assault of a child.

Representative Hope moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 628**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 628**: Hope, chair, Hinojosa, Dunnam, Wise, and Green.

**HB 3014 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Siebert called up with senate amendments for consideration at this time,

HB 3014, A bill to be entitled An Act relating to the Texas Department of Transportation's automated registration and title system.

Representative Siebert moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3014**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3014**: Hawley, chair, Alexander, Edwards, Noriega, and Uher.

**HB 3457 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Hinojosa called up with senate amendments for consideration at this time,

HB 3457, A bill to be entitled An Act relating to the renewal of certain bail bondsman licenses.

Representative Hinojosa moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3457**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3457**: Hinojosa, chair, Talton, Keel, Wise, and Smith.

**HB 3846 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative R. Lewis called up with senate amendments for consideration at this time,

HB 3846, A bill to be entitled An Act relating to the composition of the board of directors of the Sabine River Authority of Texas.

On motion of Representative R. Lewis, the house concurred in the senate amendments to **HB 3846** by (Record 507): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbrank.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Crownover; Jones, D.; Smithee.

Senate Amendment No. 1

Amend **HB 3846** as follows:

(1) In SECTION 3 of the bill, in Subdivision (1), Subsection (b) (Senate Committee Printing, page 2, line 1), strike "upper" and substitute "lower".

(2) In SECTION 3 of the bill, in Subdivision (2), Subsection (b) (Senate Committee Printing, page 2, line 4), strike "lower" and substitute "upper".

(3) In SECTION 3 of the bill, in Subdivision (3), Subsection (b) (Senate Committee Printing, page 2, line 7), strike "upper" and substitute "lower".

(4) In SECTION 3 of the bill, in Subdivision (4), Subsection (b) (Senate Committee Printing, page 2, line 10), strike "lower" and substitute "upper".

(5) In SECTION 3 of the bill, in Subdivision (5), Subsection (b) (Senate Committee Printing, page 2, line 13), strike "upper" and substitute "lower".

(6) In SECTION 3 of the bill, in Subdivision (6), Subsection (b) (Senate Committee Printing, page 2, line 16), strike "lower" and substitute "upper".

(7) In SECTION 3 of the bill, in Subdivision (7), Subsection (b) (Senate Committee Printing, page 2, line 19), strike "upper" and substitute "lower".

(8) In SECTION 3 of the bill, in Subdivision (8), Subsection (b) (Senate Committee Printing, page 2, line 22), strike "lower" and substitute "upper".

**HB 2954 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Gray called up with senate amendments for consideration at this time,

HB 2954, A bill to be entitled An Act relating to the application of the sunset review process to certain state agencies.

Representative Gray moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2954**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2954**: Gray, chair, Bosse, McCall, Heflin, and Telford.

**HB 551 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Goolsby called up with senate amendments for consideration at this time,

HB 551, A bill to be entitled An Act relating to exempting certain small corporations from the franchise tax and to the reporting requirements for those corporations.

Representative Goolsby moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 551**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 551**: Goolsby, chair, Oliveira, McCall, Y. Davis, and Sadler.

**HB 153 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Keel called up with senate amendments for consideration at this time,

HB 153, A bill to be entitled An Act relating to establishing a procedure to prevent the fraudulent use of an individual's identification in circumstances affecting proper law enforcement.

Representative Keel moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 153**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 153**: Nixon, chair, Hinojosa, Keel, Talton, and Dunnam.

(Uresti in the chair)

**HB 801 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Uher called up with senate amendments for consideration at this time,

HB 801, A bill to be entitled An Act relating to public participation in certain environmental permitting procedures of the Texas Natural Resource Conservation Commission.

Representative Uher moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 801**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 801**: Uher, chair, Maxey, Zbranek, Bonnen, and Chisum.

**HB 1032 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Pitts called up with senate amendments for consideration at this time,

HB 1032, A bill to be entitled An Act relating to parking of a motor vehicle operated by or for the transportation of a person with a disability.

On motion of Representative Pitts, the house concurred in the senate amendments to **HB 1032**.

Senate Amendment No. 1

Amend **HB 1032** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 681.002, Transportation Code, is amended by amending Subsection (b) and adding Subsection (e) to read as follows:

(b) A disabled parking placard must be two-sided and hooked and include on each side:

(1) the international symbol of access, which must be at least three inches in height, be centered on the placard, and be:

(A) white on a blue shield for a placard issued to a person with a mobility [permanent] disability described by Section 681.001(5)(B) or (C); or

(B) white on a red shield for a placard issued to a person with any other permanent or [a] temporary disability;

(2) an identification number;

(3) an expiration date at least three inches in height; and

(4) the seal or other identification of the department.

(e) In addition to the expiration date included on a disabled parking placard under Subsection (b), the expiration date must be indicated on the placard by a month and year hole-punch system.

SECTION 2. Section 681.003(c), Transportation Code, is amended to read as follows:

(c) The first application must be accompanied by a notarized written statement or written prescription of a physician licensed to practice medicine in this state certifying and providing evidence acceptable to the department that the person making the application or on whose behalf the application is made is legally blind or has a mobility problem that substantially impairs the person's ability to ambulate. The statement or prescription must include a certification of whether the disability is temporary or permanent and information acceptable to the department to determine the type of disabled parking placard for which the applicant is eligible. The department shall determine a person's eligibility based on evidence provided by the applicant establishing legal blindness or mobility impairment.

SECTION 3. Section 681.006, Transportation Code, is amended to read as follows:

Sec. 681.006. PARKING PRIVILEGES: PERSONS WITH DISABILITIES.

(a) Subject to Section 681.009(e), a [A] vehicle may be parked for an unlimited period in a parking space or area that is designated specifically for persons with physical disabilities if:

(1) the vehicle is being operated by or for the transportation of a person with a disability; and

(2) there are:

(A) displayed on the vehicle special license plates issued under Section 502.253; or

(B) placed on the rearview mirror of the vehicle's front windshield a disabled parking placard.

(b) The owner of a vehicle is exempt from the payment of a fee or penalty imposed by a governmental unit for parking at a meter [~~in a parking garage or lot, or in a space with a limitation on the length of time for parking~~] if:

(1) the vehicle is being operated by or for the transportation of a person with a disability; and

(2) there are:

(A) displayed on the vehicle special license plates issued under Section 502.253; or

(B) placed on the rearview mirror of the vehicle's front windshield a disabled parking placard.

(c) The exemption provided by Subsection (b) or (e) does not apply to a fee or penalty:

(1) imposed by a branch of the United States government; or

(2) imposed by a governmental unit for parking at a meter, in a parking garage or lot, or in a space located within the boundaries of a municipal airport.

(d) This section does not permit a vehicle to be parked at a time when or a place where parking is prohibited.

(e) A governmental unit may provide by ordinance or order that the exemption provided by Subsection (b) also applies to payment of a fee or penalty imposed by the governmental unit for parking in a parking garage or lot or in a space with a limitation on the length of time for parking. [Nothing in this code shall be interpreted as exempting any owner or operator of a vehicle from payment of fees or penalties imposed by a governmental unit for parking at a meter, in a parking garage or lot, or in a space located within the boundaries of a municipal airport.]

SECTION 4. Section 681.008, Transportation Code, is amended to read as follows:

Sec. 681.008. PARKING PRIVILEGES: VETERANS WITH DISABILITIES; CONGRESSIONAL MEDAL OF HONOR RECIPIENTS. (a) A vehicle on which license plates issued under Section 502.254 or 502.255 are displayed is exempt from the payment of a parking fee~~[-, including a fee]~~ collected through a parking meter~~[-]~~ charged by a governmental authority other than a branch of the federal government, when being operated by or for the transportation of:

(1) the person who registered the vehicle under Section 502.254(a) or 502.255; or

(2) a person described in Section 502.254(b) if the vehicle is registered under that subsection.

(b) A governmental unit may provide by ordinance or order that the exemption provided by Subsection (a) also applies to payment of a fee or penalty imposed by the governmental unit for parking in a parking garage or lot or in a space with a limitation on the length of time for parking.

SECTION 5. Section 681.009, Transportation Code, is amended by adding Subsection (e) to read as follows:

(e) A private property owner or private person who controls property used for parking and who designates one or more uncovered parking spaces for the exclusive use of vehicles transporting persons with disabilities shall assign at least half of those spaces for the exclusive use of vehicles displaying a white on blue shield disabled parking placard, except that if an odd number of spaces is designated, only the number of spaces that is the largest whole number less than half of the number of designated spaces must be assigned for the exclusive use of vehicles displaying a white on blue

shield placard. Van-accessible parking spaces shall be counted as assigned spaces under this subsection. These assigned spaces must be the spaces located closest to an accessible route to an entrance accessible to a person with a disability. The remaining designated parking spaces may be used by vehicles displaying a white on blue shield disabled parking placard, a white on red shield disabled parking placard, or license plates issued under Section 502.253. This subsection applies only to property used for parking that serves a building or other facility:

(1) that state law requires to be accessible to persons with disabilities; and

(2) for which construction or an alteration of the building or other facility is completed on or after September 1, 1999.

SECTION 6. Section 681.011, Transportation Code, is amended by amending Subsections (b) and (g)-(k) and adding Subsection (m) to read as follows:

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

(1) parks a vehicle on which license plates issued under Section 502.253 are not displayed and a disabled parking placard is not displayed in a parking space or area designated specifically for individuals with disabilities by:

(A) [(+) a political subdivision; or

(B) [(2) a person who owns or controls private property used for parking as to which a political subdivision has provided for the application of this section under Subsection (f); or

(2) parks a vehicle displaying a white on red shield disabled parking placard or license plates issued under Section 502.253 in a space designated under Section 681.009(e) for the exclusive use of vehicles displaying a white on blue shield disabled parking placard.

(g) Except as provided by Subsections (h)-(k), an offense under this section is a misdemeanor punishable by a fine of not less than \$250 [~~\$100~~] or more than \$500 [~~\$200~~].

(h) If it is shown on the trial of an offense under this section that the person has been previously convicted one time of an offense under this section, the offense is punishable by a fine of not less than \$300 [~~\$200~~] or more than \$600 [~~\$300~~].

(i) If it is shown on the trial of an offense under this section that the person has been previously convicted two times of an offense under this section, the offense is punishable by:

(1) a fine of not less than \$300 or more than \$600; and

(2) not less than 10 or more than 20 hours of community service [~~\$400~~].

(j) If it is shown on the trial of an offense under this section that the person has been previously convicted three times of an offense under this section, the offense is punishable by:

(1) a fine of not less than \$500 [~~\$400~~] or more than \$1,000; and

(2) not less than 20 or more than 50 hours of community service [~~\$500~~].

(k) If it is shown on the trial of an offense under this section that the

person has been previously convicted four times of an offense under this section, the offense is punishable by a fine of \$1,000 and 50 hours of community service [~~\$500~~].

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

(1) parks a vehicle on which are displayed license plates issued under Section 502.253 or a disabled parking placard in a parking space or area for which this chapter creates an exemption from payment of a fee or penalty imposed by a governmental unit;

(2) does not have a disability;

(3) is not transporting a person with a disability; and

(4) does not pay any applicable fee related to parking in the space or area imposed by a governmental unit or exceeds a limitation on the length of time for parking in the space or area.

SECTION 7. Section 681.011(l), Transportation Code, is repealed.

SECTION 8. Sections 1 and 2 of this Act apply only to a disabled parking placard for which an application is submitted on or after the effective date of this Act.

SECTION 9. On or after the effective date of this Act the owner of a vehicle is exempt from a parking fee or penalty under Section 681.006(e) or 681.008(b), Transportation Code, as added by this Act, only if the exemption is provided for by an ordinance adopted or order issued under Section 681.006(e) or 681.008(b), Transportation Code.

SECTION 10. This Act takes effect September 1, 1999.

SECTION 11. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

(Speaker in the chair)

**HB 2147 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Flores called up with senate amendments for consideration at this time,

HB 2147, A bill to be entitled An Act relating to the identification of real property owned by the state that is suitable for the development of affordable housing.

Representative Flores moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2147**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2147**: Flores, chair, Carter, Bailey, Ehrhardt, and Hodge.

**HB 3229 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Capelo called up with senate amendments for consideration at this time,

HB 3229, A bill to be entitled An Act relating to the property, items, persons, or contraband subject to seizure under a search warrant.

On motion of Representative Capelo, the house concurred in the senate amendments to **HB 3229** by (Record 508): 145 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Palmer; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smith; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbrank.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Corte; Crownover; Jones, D.; Smithee.

Senate Amendment No. 1

Amend **HB 3229**, in SECTION 1 of the bill, in amended Article 18.01(d), Code of Criminal Procedure, as follows:

(1) Strike "items, persons, or contraband" (Senate Committee Report, page 1, line 15), and substitute "items or contraband".

(2) Strike "enumerated in Subdivisions (1) through (9), (11), or (12)" (Senate Committee Report, page 1, line 16), and substitute "enumerated in Subdivisions (1) through (9) or in Subdivision (12)".

HR 1258 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1258**, suspending the limitations on the conferees for **HB 713**.

**HB 3255 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Oliveira called up with senate amendments for consideration at this time,

HB 3255, A bill to be entitled An Act relating to compensation to certain victims of domestic violence from the compensation to victims of crime fund.

Representative Oliveira moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3255**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3255**: Gallego, chair, Hinojosa, Dunnam, Keel, and Nixon.

**HB 1884 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Grusendorf called up with senate amendments for consideration at this time,

HB 1884, A bill to be entitled An Act relating to the collection and enforcement of child support.

Representative Grusendorf moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1884**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1884**: Grusendorf, chair, Goodman, Pickett, P. King, and A. Reyna.

**HB 1983 - HOUSE REFUSES TO CONCUR
IN SENATE AMENDMENTS
CONFERENCE COMMITTEE APPOINTED**

Representative Bosse called up with senate amendments for consideration at this time,

HB 1983, A bill to be entitled An Act relating to the continuation and functions of the Advisory Commission on State Emergency Communications.

Representative Bosse moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1983**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1983**: Bosse, chair, Gray, McCall, B. Turner, and Keel.

**HB 2155 - HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS**

Representative Yarbrough called up with senate amendments for consideration at this time,

HB 2155, A bill to be entitled An Act relating to the creation and operation of the Texas State Board of Mechanical Industries and the regulation of plumbing and mechanical laws and programs by that board; providing penalties.

On motion of Representative Yarbrough, the house concurred in the senate amendments to **HB 2155**.

Senate Amendment No. 1

Amend **CSHB 2155** by striking all below the enacting clause and substituting the following:

SECTION 1. The Revised Statutes are amended by adding Title 132B to read as follows:

TITLE 132B. TEXAS STATE BOARD OF MECHANICAL INDUSTRIES

Art. 9150. TEXAS STATE BOARD OF MECHANICAL INDUSTRIES

Sec. 1. DEFINITION. In this article, "board" means the Texas State Board of Mechanical Industries.

Sec. 2. BOARD. (a) The Texas State Board of Mechanical Industries consists of nine members as follows:

(1) one member who has at least 10 years of practical experience as a master plumber;

(2) one member who has at least 10 years of practical experience as a journeyman plumber;

(3) one member who has at least five years of experience as a plumbing contractor or as a licensed air conditioning and refrigeration contractor;

(4) one member who has at least five years of practical experience as a plumbing inspector;

(5) one member who has held an air conditioning and refrigeration class A license or class B license for at least five years;

(6) one member who has at least 10 years as a licensed irrigation contractor; and

(7) three members who are representatives of the public.

(b) Members of the board are appointed by the governor with the advice and consent of the senate.

(c) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Sec. 3. OFFICERS; MEETINGS; COMPENSATION. (a) The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the will of the governor. The board annually shall select an assistant presiding officer and a secretary-treasurer.

(b) The board shall hold at least two regular meetings each year. The board may not hold more than four meetings each year unless at least nine members of the board request the presiding officer in writing to call additional meetings.

(c) A member of the board is entitled to a per diem as set by the General Appropriations Act for each day the member engages in the business of the board. A member may not receive compensation for travel expenses, including expenses for meals and lodging, other than transportation expenses as provided by the General Appropriations Act.

Sec. 4. TERMS. (a) Members of the board are appointed for staggered six-year terms, with three members' terms expiring on February 1 of each odd-numbered year.

(b) A member appointed to fill a vacancy shall hold office for the remainder of that term.

Sec. 5. PUBLIC MEMBERSHIP RESTRICTION. A person may not be a public member of the board if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in the field of plumbing or mechanical work;

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

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the board; or

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

Sec. 6. CONFLICT OF INTEREST RESTRICTIONS. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the board and may not be a board employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) and its subsequent amendments, if:

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

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

(c) A person may not be a member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

Sec. 7. EFFECT OF LOBBYING ACTIVITY. A person may not serve as a member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

Sec. 8. GROUNDS FOR REMOVAL FROM BOARD. (a) It is a ground for removal from the board that a member:

(1) does not have at the time of taking office the qualifications required by Section 2 of this article;

(2) does not maintain during service on the board the qualifications required by Section 2 of this article;

(3) is ineligible for membership under Section 5, 6, or 7 of this article;

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.

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

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

Sec. 9. STAFF. (a) The board shall employ an executive director and administrative and clerical employees as necessary to carry out the board's functions.

(b) The board shall develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the executive director and staff of the board.

Sec. 10. REGULATORY STATUTES ADMINISTERED. The board shall administer and enforce:

(1) The Plumbing License Law (Article 6243-101, Vernon's Texas Civil Statutes);

(2) the law regulating environmental performance standards for plumbing fixtures, Chapter 372, Health and Safety Code;

(3) the Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes);

(4) the law regulating irrigators, Chapter 34, Water Code; and

(5) the law regulating certain connections to public drinking water, Section 341.033(f), Health and Safety Code.

Sec. 11. ADVISORY COMMITTEES. (a) The board shall appoint a separate advisory committee on each of the following:

(1) plumbing;

(2) irrigation;

(3) air conditioning and refrigeration; and

(4) backflow prevention.

(b) The board may appoint additional advisory committees as determined to be necessary by a majority of the board.

(c) A member of an advisory committee appointed under this section serves a two-year term. An advisory committee member is not entitled to compensation but is entitled to reimbursement for actual and necessary expenses, including travel expenses, incurred in performing duties as a member of the advisory committee.

Sec. 12. SEPARATE LICENSES. (a) The board shall issue separate licenses, certificates, permits, or registrations for the programs under Section 10 of this article in which a license, certificate, permit, or registration is issued by the board.

(b) The board may issue more than one type of license, certificate, permit, or registration to a person under a law regulated by the board if the person is qualified to hold each of the licenses, certificates, permits, or registrations issued. The board shall adopt rules relating to the issuance of multiple licenses, certificates, permits, or registrations to a person under laws administered by the board.

Sec. 13. EXPENDITURES; AUDIT. (a) The board may authorize, from funds appropriated to it, all necessary disbursements to carry out this article and the laws and programs listed in Section 10 of this article.

(b) The financial transactions of the board are subject to audit by the state auditor in accordance with Chapter 321, Government Code.

Sec. 14. ANNUAL FINANCIAL REPORT. The board shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the board during the preceding fiscal year. The annual report must be in the form and reported in the time provided by the General Appropriations Act.

Sec. 15. PERSONNEL POLICIES. (a) The executive director or the executive director's designee shall develop an intra-agency career ladder program. The program shall require intra-agency posting of all nonentry level positions concurrently with any public posting.

(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for board employees must be based on the system established under this subsection.

Sec. 16. EQUAL EMPLOYMENT OPPORTUNITY POLICIES. (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement that implements a program of equal employment opportunity to ensure that all personnel decisions are made without regard to race, color, disability, sex, religion, age, or national origin.

(b) The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the board to avoid the unlawful employment practices described by Chapter 21, Labor Code; and

(2) an analysis of the extent to which the composition of the board's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(c) The policy statement must:

(1) be updated annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection (b)(1); and

(3) be filed with the governor's office.

Sec. 17. PUBLIC INTEREST INFORMATION. (a) The board shall prepare information of public interest describing the functions of the board and the board's procedures by which complaints are filed with and resolved by the board. The board shall make the information available to the public and appropriate state agencies.

(b) The board by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the board and the license number of the responsible licensee for the purpose of directing complaints to the board. The board or the responsible licensee, as appropriate, shall provide for that notification:

(1) on each registration form, application, or written contract for services of an individual or entity regulated by the board;

(2) on a sign prominently displayed in the place of business of each individual or entity regulated by the board;

(3) in a bill for service provided by an individual or entity regulated by the board; and

(4) the company name and license number of the responsible licensee shall be displayed on both sides of all vehicles used in conjunction with contracting or performing work regulated by the board.

(c) The board shall list along with its regular telephone number the toll-free telephone number that may be called to present a complaint about a health professional if the toll-free number is established under other state law.

Sec. 18. PUBLIC PARTICIPATION IN BOARD HEARINGS. The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

Sec. 19. PROGRAM ACCESSIBILITY. The board shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the board's programs. The board shall also comply with federal and state laws for program and facility accessibility.

Sec. 20. BOARD MEMBER TRAINING; STANDARDS OF CONDUCT INFORMATION. (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.

(b) The training program must provide the person with information regarding:

(1) this article and the statutes enforced by the board;

(2) the programs operated by the board;

(3) the role and functions of the board;

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

(5) the current budget for the board;

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

(7) the requirements of:

(A) the open meetings law, Chapter 551, Government Code;

(B) the public information law, Chapter 552, Government Code;

(C) the administrative procedure law, Chapter 2001, Government Code; and

(D) other laws relating to public officials, including conflict-of-interest laws; and

(8) any applicable ethics policies adopted by the board or the Texas Ethics Commission.

(c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

(d) The executive director or the executive director's designee shall provide to members of the board and to board employees, as often as necessary, information regarding the requirements for office or employment under this article, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Sec. 21. SUNSET PROVISION. The Texas State Board of Mechanical Industries is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this article expires September 1, 2011.

Sec. 22. PENALTIES. (a) The board shall revoke or suspend a license, endorsement, certification, or registration, probate a license, endorsement, certification, or registration suspension, or reprimand any person or entity regulated by the board for any violation of this article or any regulatory statute administered by the board or any rule adopted under this article or any rule adopted under any regulatory statute administered by the board. A violation of this article shall include but not be limited to: obtaining a license through error or fraud; having recklessly, wilfully, negligently, or arbitrarily violated municipal or other political subdivision rules or ordinances regulating any work governed by the board; making a substantial misrepresentation of services to be provided or which have been provided; making any false promise with intent to influence, persuade, or induce an individual to contract for services. Grounds for suspension or revocation of a license, endorsement, certification, or registration due to suspected incompetence or wilful violation by a licensee may be determined through retesting procedures.

(b) The board may assess an administrative penalty against a person or entity who violates a provision of this article, a law administered by the board, or a rule or order adopted by the board as provided by this section.

(c) The penalty for each violation may be in an amount not to exceed \$1,000. Each day a violation continues or occurs may be considered a separate violation for purposes of penalty assessment. In determining the amount of the penalty, the board shall consider:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the prohibited acts and the hazard or potential hazard posed to the health or safety of the public;

(2) the economic damage to property or the environment caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter future violations;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

(d) If the board proposes to assess an administrative penalty, refuse a person's application for licensure, endorsement, certification, or registration, or suspend or revoke a person's license, endorsement, certification, or registration, the person is entitled to a hearing, if requested, governed by the Administrative Procedure Act, Chapter 2001, Government Code.

(e) The executive director or the executive director's staff designee or staff designees shall oversee and conduct investigations, conduct informal conferences, negotiate agreed final orders, draft formal complaints, recommend administrative penalties, and pursue cases involving violations of this article or any regulatory statute administered by the board or any rule adopted under this article or any rule adopted under any regulatory statute administered by the board at the State Office of Administrative Hearings. Proceedings for assessing administrative penalties or for the refusal, suspension, or revocation of a license, endorsement, certification, or registration are subject to the Administrative Procedure Act, Chapter 2001, Government Code.

(f) Within the 30-day period immediately following the day on which a board order assessing an administrative penalty to a person or entity becomes final as provided by Section 2001.144, Government Code, the person or entity charged with the penalty shall:

(1) pay the penalty in full; or

(2) if the person files a petition for judicial review contesting either the fact of the violation or the amount of the penalty or contesting both the fact of the violation and the amount of the penalty:

(A) forward the amount to the board for placement in an escrow account; or

(B) in lieu of payment into escrow, post with the board a supersedeas bond in a form approved by the board for the amount of the penalty, the bond to be effective until all judicial review of the order or decision is final.

(g) If a person charged is financially unable to either forward the amount of the penalty for placement in an escrow account or post a supersedeas bond for the amount of the penalty, the person may satisfy the requirements of Subsection (f)(2) of this section by filing with the board an affidavit sworn by the person charged, stating that the person is financially unable to either forward the amount of the penalty or post a bond.

(h) If the person charged fails to pay the penalty in full as provided under Subsection (f)(1) of this section or forward the money, post the bond, or file the affidavit as provided by Subsection (f) or (g) of this section, the board may forward the matter to the attorney general for enforcement.

(i) Judicial review of the order or decision of the board assessing the penalty shall be under the substantial evidence rule and shall be instituted by filing a petition with a district court in Travis County, as provided by Subchapter G, Chapter 2001, Government Code.

(j) If the penalty is reduced or not assessed by the court, the board shall remit to the person charged the appropriate amount plus accrued interest if the penalty has been paid or shall execute a release of the bond if a supersedeas bond has been posted. The accrued interest on amounts remitted

by the board under this subsection shall be paid at a rate equal to the rate charged on loans to depository institutions by the New York Federal Reserve Bank and shall be paid for the period beginning on the date the penalty is paid to the board under Subsection (f) of this section and ending on the date the penalty is remitted.

(k) An administrative penalty collected under Subsection (b) of this section shall be deposited in the general revenue fund.

(l) A person commits an offense if the person violates this article or any regulatory statute administered by the board or any rule adopted under this article or any rule adopted under any regulatory statute administered by the board, engages in activities for which a license, endorsement, certification, or registration is required without a license, endorsement, certification, or registration issued under this article, or employs or utilizes an unlicensed, unendorsed, uncertified, or unregistered person to engage in activities for which a license, endorsement, certification, or registration is required by this article. An offense under this subsection is a Class C misdemeanor.

(m) A field representative of the board or, within the jurisdiction of that municipality or water district, a municipal inspector or water district inspector or other inspector authorized to inspect work regulated by the board, may issue citations to persons who engage in conduct described by Subsection (l) of this section.

(n) Citations issued under Subsection (l) and Subsection (m) of this section may be filed in a county justice court or municipal court for adjudication of the offense or offenses.

Sec. 23. EFFECT OF FEDERAL REGULATIONS. The board shall adopt rules for a law or program regulated by the board as necessary to comply with any federal regulation that imposes standards or requirements on that law or program.

SECTION 2. The Plumbing License Law (Article 6243-101, Vernon's Texas Civil Statutes) is amended by adding Section 1A and amending Section 3A to read as follows:

Sec. 1A. FUNCTIONS TRANSFERRED; BOARD ABOLISHED. (a) This Act is administered by the Texas State Board of Mechanical Industries in accordance with Article 9150, Revised Statutes. To the extent of a conflict between this Act and Article 9150, Revised Statutes, that article prevails.

(b) Any reference in this Act to the Texas State Board of Plumbing Examiners means the Texas State Board of Mechanical Industries.

(c) The Texas State Board of Plumbing Examiners is abolished and the functions of that board are exercised by the Texas State Board of Mechanical Industries.

Sec. 3A. CERTIFICATION RELATING TO RESIDENTIAL WATER TREATMENT FACILITIES. (a) The executive director of the Texas State Board of Mechanical Industries or the executive director's [~~Commissioner of Health or his~~] designee shall certify persons as being qualified for the installation, exchange, servicing, and repair of residential water treatment facilities [as defined by Subsection (g) of Section 2 of this Act]. The Texas State Board of Mechanical Industries [~~Board of Health~~] shall set standards for certification to ensure the public health and to protect the public from

unqualified persons engaging in activities relating to water treatment. Nothing in this section shall be construed to require that persons licensed pursuant to this Act are subject to certification under this section.

(b) ~~[Before a certificate is issued or renewed under this section, an applicant or holder of a certificate shall be required to pay a fee of \$10 a year.]~~ On receipt of the required fee, the Texas State Board of Mechanical Industries ~~[Department of Health]~~ shall issue to a qualified person a certificate stating that the person is qualified for the installation, exchange, servicing, and repair of residential water treatment facilities. The Texas State Board of Mechanical Industries ~~[Board of Health]~~ shall adopt rules establishing classes of certificates, duration of certificates, and fees.

(c) All fees received by the Texas State Board of Mechanical Industries ~~[Department of Health]~~ under this section shall be deposited in the State Treasury to the credit of the General Revenue Fund.

SECTION 3. The Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes) is amended by adding Section 1A to read as follows:

Sec. 1A. FUNCTIONS TRANSFERRED; ADVISORY BOARD ABOLISHED. (a) This Act is administered by the Texas State Board of Mechanical Industries in accordance with Article 9150, Revised Statutes. To the extent of a conflict between this Act and Article 9150, Revised Statutes, that article prevails.

(b) Any reference in this Act to the Texas Department of Licensing and Regulation, the commissioner of licensing and regulation, or the Air Conditioning and Refrigeration Contractors Advisory Board means the Texas State Board of Mechanical Industries.

(c) The Air Conditioning and Refrigeration Contractors Advisory Board is abolished and the functions of that board and the functions, under this Act, of the Texas Department of Licensing and Regulation and the commissioner of licensing and regulation are exercised by the Texas State Board of Mechanical Industries.

SECTION 4. Section 341.033(f), Health and Safety Code, is amended to read as follows:

(f) A public drinking water supply may not be connected to a sprinkling, condensing, cooling, plumbing, or other system unless the connection is designed to ensure against a backflow or siphonage of sewage or contaminated water into the drinking water supply. Notwithstanding any other provision of this chapter, this subsection is administered by the Texas State Board of Mechanical Industries in accordance with Article 9150, Revised Statutes. To the extent of a conflict between this chapter and Article 9150, Revised Statutes, regarding the administration of this subsection, Article 9150 prevails. Any reference in this chapter to the Texas Natural Resource Conservation Commission, as it applies to this subsection, means the Texas State Board of Mechanical Industries.

SECTION 5. Chapter 372, Health and Safety Code, is amended by adding Section 372.0015 to read as follows:

Sec. 372.0015. FUNCTIONS TRANSFERRED. (a) This chapter is administered by the Texas State Board of Mechanical Industries in accordance

with Article 9150, Revised Statutes. To the extent of a conflict between this chapter and Article 9150, Revised Statutes, that article prevails.

(b) Any reference in this chapter to the Texas Natural Resource Conservation Commission means the Texas State Board of Mechanical Industries.

SECTION 6. Chapter 34, Water Code, is amended by adding Section 34.0015 to read as follows:

Sec. 34.0015. FUNCTIONS TRANSFERRED; COUNCIL ABOLISHED.

(a) This chapter is administered by the Texas State Board of Mechanical Industries in accordance with Article 9150, Revised Statutes. To the extent of a conflict between this chapter and Article 9150, Revised Statutes, that article prevails.

(b) Any reference in this chapter to the Texas Natural Resource Conservation Commission or the Texas irrigators advisory council means the Texas State Board of Mechanical Industries.

(c) The Texas irrigators advisory council is abolished and the functions of that board and the functions, under this chapter, of the Texas Natural Resource Conservation Commission are exercised by the Texas State Board of Mechanical Industries.

SECTION 7. (a) As soon as possible after the effective date of this Act, the governor shall appoint the initial members of the Texas State Board of Mechanical Industries in accordance with Article 9150, Revised Statutes, as added by this Act.

(b) A person who is serving on the day immediately before the effective date of this Act as a member of the governing body of an agency abolished by this Act is eligible for appointment to the Texas State Board of Mechanical Industries if the person meets the requirements set forth in Section 2, Article 9150, Revised Statutes, as added by this Act.

(c) In making the initial appointments, the governor shall designate members to serve terms as follows:

- (1) three members to serve for terms expiring February 1, 2001;
- (2) three members to serve for terms expiring February 1, 2003; and
- (3) three members to serve for terms expiring February 1, 2005.

(d) The Texas State Board of Mechanical Industries may not take any action and is not created until the day after the date the last appointee to the initial board takes office. On the date of its creation, the board assumes its functions and:

(1) the Air Conditioning and Refrigeration Contractors Advisory Board, Texas State Board of Plumbing Examiners, and Texas irrigators advisory council are abolished;

(2) the obligations, rights, contracts, records and other property, and personnel of, and unspent money appropriated to or for, the abolished boards and council or the governing body for the laws or programs transferred to the new board under this Act are transferred to the Texas State Board of Mechanical Industries;

(3) the rules of the abolished boards and council or the governing body for the laws or programs transferred to the new board under this Act are continued in effect as rules of the Texas State Board of Mechanical Industries until superseded by rule of the new board;

(4) the licenses, certificates, permits, or registrations in effect that were issued by the abolished boards or council or the governing body for the laws or programs transferred to the new board under this Act are continued in effect as licenses, certificates, permits, or registrations of the Texas State Board of Mechanical Industries;

(5) a complaint or investigation pending before the abolished boards or council or the governing body for the laws or programs transferred to the new board under this Act is transferred without change in status to the Texas State Board of Mechanical Industries;

(6) a contested case pending before the abolished boards and council or the governing body for the laws or programs transferred to the new board under this Act is transferred to the Texas State Board of Mechanical Industries and actions taken in the proceeding are treated as if taken by the Texas State Board of Mechanical Industries; and

(7) any reference in a law to the abolished boards or council means the Texas State Board of Mechanical Industries.

(e) Regardless of the changes in law made by this Act, until the date that the Air Conditioning and Refrigeration Contractors Advisory Board, Texas State Board of Plumbing Examiners, and Texas irrigators advisory council are abolished as provided by this section, the boards and council continue in existence and shall administer their functions under the law that governed the boards and council before the effective date of this Act, and the prior law is continued in effect for that purpose.

(f) The Texas State Board of Mechanical Industries shall adopt rules under this Act not later than December 1, 1999.

SECTION 8. The following laws are repealed:

(1) Sections 3(b), 4, 4a, 5A, 6, and 7, The Plumbing License Law (Article 6243-101, Vernon's Texas Civil Statutes);

(2) Section 3A, Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes); and

(3) Section 34.003, Water Code.

SECTION 9. This Act takes effect September 1, 1999.

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.

Senate Amendment No. 2

Amend **HB 2155**, SECTION 8(1) by striking "3(b)"

HB 2824 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED

Representative Gray called up with senate amendments for consideration at this time,

HB 2824, A bill to be entitled An Act relating to the subpoena authority of certain licensing agencies.

Representative Gray moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2824**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2824**: Gray, chair, McCall, Bosse, Goodman, and Hinojosa.

HB 2190 - VOTE RECONSIDERED

Representative Hinojosa moved to reconsider the vote by which the house concurred in senate amendments to **HB 2190**.

The motion to reconsider prevailed.

Representative Hinojosa moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2190**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2190**: Hinojosa, chair, Dunnam, Keel, Talton, and Wise.

HR 1261 - ADOPTED (by Dutton)

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

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1261, Recognizing the centennial of Houston's Mt. Sinai Baptist Church.

HR 1261 was adopted without objection.

HR 1256 - ADOPTED (by P. King)

Representative P. King moved to suspend all necessary rules to take up and consider at this time **HR 1256**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1256, Honoring the Aledo High School football team for being invited to participate in the Disney Game of the Week Kick-Off Classic on August 26-29, 1999.

HR 1256 was adopted without objection.

HR 1258 - ADOPTED
(by Cuellar)

The following privileged resolution was laid before the house:

HR 1258

BE IT RESOLVED by the House of Representatives of the State of Texas, 76th Legislature, Regular Session, 1999, 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 713**, relating to the establishment and operation of the Toward EXcellence, Access, & Success (TEXAS) grant program and the Teach for Texas Grant Program; consolidating and revising financial aid, grant, and scholarship programs; and providing for the education, certification, and recruitment of teachers and faculty instructors, to consider and take action on the following matters:

(1) House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to add additional text not included in either the house or senate version of the bill, in Section 1 of the bill, in added Sections 56.304 and 56.305, Education Code, to read as follows:

[Sec. 56.304]

(h) The coordinating board shall adopt rules to allow a person who is otherwise eligible to receive a TEXAS grant, in the event of a hardship or for other good cause shown, including a showing of a severe illness or other debilitating condition that may affect the person's academic performance or that the person is responsible for the care of a sick, injured, or needy person and that the person's provision of care may affect the person's academic performance, to receive a TEXAS grant while enrolled in a number of semester credit hours that is less than the number of semester credit hours required under Subsection (a)(5). The coordinating board may not allow a person to receive a TEXAS grant while enrolled in fewer than six semester credit hours.

[Sec. 56.305]

(g) The coordinating board shall adopt rules to allow a person who is otherwise eligible to receive a TEXAS grant, in the event of a hardship or for other good cause shown, including a showing of a severe illness or other debilitating condition that may affect the person's academic performance or that the person is responsible for the care of a sick, injured, or needy person and that the person's provision of care may affect the person's academic performance, to receive a TEXAS grant while enrolled in a number of semester credit hours that is less than the number of semester credit hours required under Subsection (a)(3). The coordinating board may not allow a person to receive a TEXAS grant while enrolled in fewer than six semester credit hours.

Explanation: This change is needed to allow the Texas Higher Education Coordinating Board to adopt rules to allow a student receiving a TEXAS grant to register for a reduced number of semester credit hours in the event of a hardship or for good cause shown.

(2) House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to add additional text not included in either the house or senate

version of the bill, in Section 1 of the bill, in added Section 56.305, Education Code, to read as follows:

(f) A person who is eligible to receive a TEXAS grant continues to remain eligible to receive the TEXAS grant if the person enrolls in or transfers to another eligible institution.

Explanation: This change is needed to allow a student receiving a TEXAS grant to enroll in or transfer to another institution other than the institution the student originally attended.

(3) House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to add additional text not included in either the house or senate version of the bill, in Section 1 of the bill, in added Section 56.307, Education Code, to read as follows:

(h) The total amount of grants that a student may receive in an academic year under this subchapter and under Section 61.221 may not exceed the maximum amount authorized under Section 61.227.

(i) A public institution of higher education may not:

(1) charge a person attending the institution who also receives a TEXAS grant an amount of tuition and required fees in excess of the amount of the TEXAS grant received by the person; or

(2) deny admission to or enrollment in the institution based on a person's eligibility to receive a TEXAS grant or a person's receipt of a TEXAS grant.

(j) An institution may use other available sources of financial aid, other than a loan or a Pell grant, to cover any difference in the amount of a TEXAS grant and the actual amount of tuition and required fees at the institution.

(k) The legislature in an appropriations act shall account for tuition and required fees received under this section in a way that does not increase the general revenue appropriations to that institution.

Explanation: This change is needed to set a maximum amount that certain students may receive under the TEXAS grant program, to restrict the amounts of tuition and fees an institution of higher education may receive from a TEXAS grant recipient, and from other sources, to clarify actions an institution may take with regard to TEXAS grant recipients, and to specify the effect of the grants on general revenue appropriations.

(4) House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to add additional text not included in either the house or senate version of the bill, in Section 1 of the bill, in added Subchapter M, Chapter 56, Education Code, to read as follows:

Sec. 56.311. LEGISLATIVE OVERSIGHT COMMITTEE. (a) The Legislative Oversight Committee on the TEXAS and Teach for Texas grant programs established by this subchapter is composed of six members as follows:

(1) three members of the senate appointed by the lieutenant governor; and

(2) three members of the house of representatives appointed by the speaker of the house of representatives.

(b) The committee shall:

(1) meet at least twice a year with the coordinating board; and
(2) receive information regarding rules relating to the TEXAS and Teach for Texas grant programs established by this subchapter that have been adopted by the coordinating board or proposed for adoption by the coordinating board.

(c) The committee may request reports and other information from the coordinating board relating to the operation of the TEXAS and Teach for Texas grant programs under this subchapter by the coordinating board.

(d) The committee shall review the specific recommendations for legislation related to this subchapter that are proposed by the coordinating board.

(e) The committee shall monitor the operation of the TEXAS and Teach for Texas grant programs established under this subchapter, with emphasis on the manner of the award of grants, the number of grants awarded, and the educational progress made by persons who have received grants under this subchapter.

(f) The committee shall file a report with the governor, lieutenant governor, and speaker of the house of representatives not later than December 31 of each even-numbered year.

(g) The report shall include identification of any problems in the TEXAS and Teach for Texas grant programs operated under this subchapter with recommended solutions for the coordinating board and for legislative action.

Explanation: This change is needed to create a legislative oversight committee to oversee the TEXAS and Teach for Texas grant programs.

(5) House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to add additional text not included in either the house or senate version of the bill, to read as follows:

SECTION 11. Sections 54.215 and . . . , Education Code, are repealed.

SECTION 15. A person receiving a scholarship or other financial assistance under Section 54.215 or 54.216, Education Code, or Subchapter G, Chapter 56, Education Code, on the effective date of this Act may continue to receive a scholarship or other financial assistance under Section 54.215 or 54.216 or under Subchapter G, Chapter 56, Education Code, as applicable to the person on the effective date, until the person is no longer eligible for the scholarship or other assistance under Section 54.215 or 54.216, Education Code, or Subchapter G, Chapter 56, Education Code, as the applicable section or subchapter exists on January 1, 1999. The costs of the scholarships or other financial assistance authorized under this section shall be covered by the TEXAS grant program established by Subchapter M, Chapter 56, Education Code, as added by this Act.

Explanation: This change is needed to abolish the student financial assistance program for certain National Guard/ROTC students and to allow existing National Guard/ROTC students to continue to receive assistance.

(6) House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to add additional text not included in either the house or senate version of the bill, to read as follows:

SECTION 17. (a) The Texas Higher Education Coordinating Board shall review and study the effect of the TEXAS grant program and the Teach for

Texas grant program established by Subchapter M, Chapter 56, Education Code, as added by this Act, on enrollments at institutions of higher education. The study shall determine whether there have been shifts in enrollments between universities and community colleges and whether those shifts were caused by the different grant amounts awarded to students at each institution. The report shall make recommendations for legislative changes to the methodology for calculating the amount of the grant awards, if needed.

(b) The Texas Higher Education Coordinating Board shall report its findings to the governor, the lieutenant governor, the speaker of the house of representatives, the presiding officer of each legislative committee with oversight responsibilities for higher education institutions, and the legislative oversight committee established under Subchapter M, Chapter 56, Education Code, as added by this Act, not later than December 1, 2000.

Explanation: This change is needed to allow the Texas Higher Education Coordinating Board to study and review the effects of the TEXAS grant program and the Teach for Texas grant program on enrollments at institutions of higher education.

(7) House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to add additional text not included in either the house or senate version of the bill, to read as follows:

SECTION 11. (a) This Act may be cited as the Steven Gonzales-Prisoner of War Higher Education Act.

(b) Subchapter D, Chapter 54, Education Code, is amended by adding Section 54.219 to read as follows:

Sec. 54.219. PRISONERS OF WAR. (a) In this section, "tuition and required fees" includes tuition, service fees, lab fees, building use fees, and all other required fees except room, board, or clothing fees or deposits in the nature of security for the return or proper care of property.

(b) For each semester or summer session and for a total number of semester credit hours not to exceed 120, the governing body of each institution of higher education shall exempt from the payment of tuition and required fees any person who:

(1) is a resident of Texas and was a resident of Texas at the time of the person's original entry into the United States armed forces;

(2) was first classified as a prisoner of war by the United States Department of Defense on or after January 1, 1999; and

(3) is enrolled for at least 12 semester credit hours.

(c) For each semester or session in which a person receives an exemption from tuition and required fees under Subsection (b), the governing body of the institution the person attends shall exempt the person from the payment of fees and charges for lodging and board if the person resides on the campus of the institution. If the person does not reside on the campus of the institution, the institution shall provide to the person a reasonable stipend to cover the costs of the person's lodging and board.

(d) For each semester or session in which a person receives an exemption from tuition and required fees under Subsection (b), the governing body of the institution the person attends shall award to the person a scholarship to cover the costs of books and similar educational materials required for course work at the institution.

(e) An institution may use any available revenue, including legislative appropriations, and shall solicit and accept gifts, grants, and donations for the purposes of this section. The institution shall use gifts, grants, and donations received for the purposes of this section before using any other revenue.

(c) This section applies beginning with the 1999 fall semester.

Explanation: This change is necessary to require institutions of higher education to provide tuition and fee exemptions and other financial assistance to certain prisoners of war residing in Texas.

HR 1258 was adopted without objection.

SCR 60 - ADOPTED
(Driver - House Sponsor)

Representative Driver moved to suspend all necessary rules to take up and consider at this time **SCR 60**.

The motion prevailed without objection.

The following resolution was laid before the house:

SCR 60, Honoring Garland I.S.D. superintendent Dr. Jill Shugart on her retirement.

SCR 60 was adopted without objection.

HCR 309 - ADOPTED
(by Hunter)

Representative Hunter moved to suspend all necessary rules to take up and consider at this time **HCR 309**.

The motion prevailed without objection.

The following resolution was laid before the house:

HCR 309, Recognizing the May 31, 1999, dedication of the Medal of Honor Monument in the Texas State Cemetery.

HCR 309 was adopted without objection.

HOUSE AT EASE

At 5:58 p.m., the speaker announced that the house would stand at ease.

The speaker called the house to order at 6:09 p.m.

MESSAGES FROM THE SENATE

Messages from the senate were received at this time (see the addendum to the daily journal, Messages from the Senate, Message Nos. 3 and 4).

HR 1265 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1265**, suspending the limitations on the conferees for **HB 3470**.

**SB 560 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Walker, the house granted the request of the senate for the appointment of a conference committee on **SB 560**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 560**: Goodman, chair, Van de Putte, McCall, Wolens, and Marchant.

**SB 89 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Walker, the house granted the request of the senate for the appointment of a conference committee on **SB 89**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 89**: Bosse, chair, Walker, Puente, B. Turner, and Greenberg.

**SB 1703 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Walker, the house granted the request of the senate for the appointment of a conference committee on **SB 1703**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1703**: Hodge, chair, Najera, Hill, Edwards, and Clark.

**SB 103 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Walker, the house granted the request of the senate for the appointment of a conference committee on **SB 103**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 103**: Grusendorf, chair, Sadler, Oliveira, Coleman, and Smith.

**SB 104 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Walker, the house granted the request of the senate for the appointment of a conference committee on **SB 104**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 104**: Coleman, chair, Dutton, Sadler, Dunnam, and Smith.

**SB 709 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Walker, the house granted the request of the senate for the appointment of a conference committee on **SB 709**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 709**: Keffer, chair, F. Brown, Hardcastle, Walker, and Mowery.

**SB 1615 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Walker, the house granted the request of the senate for the appointment of a conference committee on **SB 1615**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1615**: J. Solis, chair, Hinojosa, Coleman, Delisi, and McClendon.

**SB 441 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Walker, the house granted the request of the senate for the appointment of a conference committee on **SB 441**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 441**: McCall, chair, Oliveira, Y. Davis, Sadler, and Heflin.

**SB 731 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Walker, the house granted the request of the senate for the appointment of a conference committee on **SB 731**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 731**: Goodman, chair, Bosse, Hope, Smithee, and Zbranek.

**SB 840 - REQUEST OF SENATE GRANTED
CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Walker, the house granted the request of the senate for the appointment of a conference committee on **SB 840**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 840**: Hinojosa, chair, Gutierrez, Dunnam, Keel, and Wise.

ADJOURNMENT

Representative Deshotel moved that the house adjourn until 10 a.m. tomorrow.

The motion prevailed without objection.

The house accordingly, at 6:43 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 299 (by Wise), Requesting a study of the extension of dental PPO benefits to all businesses without access to self-funded programs.

To House Administration.

HR 1093 (by Chavez), Directing the House Committee on Higher Education to study and make recommendations on the calculation of college and university student grade point averages for courses retaken and to explore additional affordable fees for repeating courses.

To House Administration.

HR 1200 (by Wise), Requesting a study of the extension of dental PPO benefits to all businesses without access to self-funded programs.

To House Administration.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 64

HB 98, HB 580, HB 734, HB 804, HB 1100, HB 1224, HB 1491, HB 1924, HB 2281, HB 2968, HB 3059, HB 3207, HB 3342, HCR 298, HCR 301

Senate List No. 33

SB 15, SB 16, SB 17, SB 30, SB 76, SB 133, SB 199, SB 247, SB 323, SB 332, SB 429, SB 435, SB 436, SB 440, SB 486, SB 524, SB 526, SB 556, SB 578, SB 579, SB 590, SB 613, SB 640, SB 682, SB 753, SB 804, SB 848, SB 858, SB 868, SB 931, SB 939, SB 941, SB 959, SB 1034, SB 1070, SB 1074, SB 1092, SB 1157, SB 1176, SB 1215, SB 1235, SB 1297, SB 1323, SB 1340, SB 1351, SB 1443, SB 1486, SB 1547, SB 1576, SB 1586, SB 1589, SB 1610, SB 1628, SB 1641, SB 1656, SB 1657, SB 1664, SB 1730, SB 1742, SB 1747, SB 1780, SB 1807, SB 1822, SB 1851, SB 1853, SB 1870, SB 1881, SCR 7, SCR 34, SCR 37, SCR 38, SCR 59

House List No. 65

HB 89, HB 116, HB 163, HB 243, HB 245, HB 261, HB 318, HB 668, HB 703, HB 714, HB 729, HB 756, HB 780, HB 806, HB 834, HB 916, HB 926, HB 969, HB 1086, HB 1103, HB 1137, HB 1176, HB 1350, HB 1510, HB 1517, HB 1538, HB 1575, HB 1583, HB 2152, HB 2162, HB 3324, HB 3809, HCR 265, HCR 288, HCR 289

House List No. 66

HB 59, HB 108, HB 213, HB 269, HB 319, HB 351, HB 652, HB 722, HB 861, HB 953, HB 965, HB 1027, HB 1066, HB 1070, HB 1078, HB 1082, HB 1097, HB 1148, HB 1159, HB 1184, HB 1211, HB 1217, HB 1219, HB 1333, HB 1337, HB 1353, HB 1354, HB 1374, HB 1425, HB 1432, HB 1436, HB 1522, HB 1545, HB 1562, HB 1563, HB 1586, HB 1604, HB 1616, HB 2059, HB 2109, HB 2135, HB 2146, HB 2151, HB 2164, HB 2166, HB 2201, HB 2547, HB 2663, HB 2915, HB 2941, HB 2971, HB 3159, HB 3204, HCR 300

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
Thursday, May 27, 1999

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:

HB 247 Puente SPONSOR: Wentworth
Relating to the use of neighborhood associations in the enforcement of certain municipal health and safety ordinances.
(AMENDED)

HB 772 Davis, Yvonne SPONSOR: Nelson
Relating to fees charged by an independent school district for voluntary educational programs.
(AMENDED)

HB 932 Hawley SPONSOR: Shapleigh
Relating to the use of towing safety chains.
(AMENDED)

HB 1049 Sadler SPONSOR: Ratliff
Relating to designating the Texas State Technical College System extension center in the city of Marshall as a campus of the system.

HB 1059 Keel SPONSOR: Barrientos
Relating to the regulation of amusement rides; providing a penalty.
(AMENDED)

HB 1861 Gutierrez SPONSOR: Shapleigh
Relating to increasing private investments in transportation infrastructure in the border region.
(AMENDED)

HB 1907 Gutierrez SPONSOR: Lucio
Relating to the limited law enforcement authority of certain agents or officers of the government of the United States.

HB 2125 Reyna, Elvira SPONSOR: Carona
Relating to creating the offense of stealing or receiving a stolen check or sight order.
(AMENDED)

- HB 2553** Hochberg SPONSOR: Bivins
Relating to performance reviews of school districts by the comptroller.
(AMENDED)
- HB 2794** Gutierrez SPONSOR: Wentworth
Relating to the automation of the compulsory motor vehicle inspection system.
(AMENDED)
- HB 3009** Greenberg SPONSOR: Sibley
Relating to investments and audits under the Public Funds Investment Act.
(AMENDED)
- HB 3174** Hartnett SPONSOR: Shapiro
Relating to the application of the professional prosecutors law to the criminal district attorney of Dallas County.
(AMENDED)
- HB 3407** Williams SPONSOR: Bernsen
Relating to applying the open meetings and open records laws to certain property owners' associations.
- HB 3828** Counts SPONSOR: Haywood
Relating to the jurisdiction of the County Court of Knox County.
- HCR 178** Ramsay SPONSOR: Ratliff
Commemorating the 150th anniversary of the First Baptist Church of Mount Vernon.

Respectfully,

Betty King
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Thursday, May 27, 1999 - 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 268** Chisum SPONSOR: Brown, J. E. "Buster"
In memory of Roye Mulholland.
- HCR 293** Olivo SPONSOR: Sibley
Congratulating Jose Nino on being named the 1999 Bank One Tucson Internatio Mariachi Conference Mariachi Director-Teacher of the Year.

HCR 304 Olivo SPONSOR: Sibley
Honoring Mariachi Cultural of University High School in Waco.

HCR 305 Craddick SPONSOR: Bivins
Honoring state technology award winners from Midland High School.

HCR 306 Craddick SPONSOR: Bivins
Honoring state technology award winners from Lee High School.

THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 560
Senate Conferees: Sibley - Chair/Armbrister/Fraser/Madla/Nels

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 1 (viva-voce vote)

Respectfully,

Betty King
Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Thursday, May 27, 1999 - 3

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HCR 308 Heflin
Declaring the month of October "Czech Heritage Month" in Texas.

THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

- SB 7** (viva-voce vote)
- SB 100** (30 Yeas, 0 Nays)
- SB 230** (30 Yeas, 0 Nays)
- SB 335** (viva-voce vote)
- SB 368** (viva-voce vote)
- SB 382** (viva-voce vote)
- SB 396** (30 Yeas, 0 nays)

SB 964 (viva-voce vote)
SB 1175 (viva-voce vote)
SB 1185 (viva-voce vote)
SB 1354 (viva-voce vote)
SB 1477 (viva-voce vote)

THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 89

Senate Conferees: Madla - Chair/Armbrister/Lindsay/Lucio/Nixon, Drew

SB 103

Senate Conferees: Bivins - Chair/Armbrister/Cain/Ratliff/Sibley

SB 104

Senate Conferees: Duncan - Chair/Bernsen/Bivins/Cain/Sibley

SB 441

Senate Conferees: Ellis, Rodney - Chair/Duncan/Fraser/Ratliff/Sibley

SB 731

Senate Conferees: Harris - Chair/Ellis, Rodney/Lucio/Madla/Wentworth

SB 840

Senate Conferees: West, Royce - Chair/Duncan/Ellis, Rodney/Shapiro/Whitmire

SB 1615

Senate Conferees: Lucio - Chair/Brown, J. E. "Buster"/Truan/Wentworth/Zaffirini

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

SB 61 (viva-voce vote)
SB 730 (viva-voce vote)
SB 781 (viva-voce vote)
SB 801 (30 Yeas, 0 Nays)
SB 839 (viva-voce vote)

THE SENATE HAS RECOMMENDED THE FOLLOWING MEASURES TO CONFERENCE COMMITTEE:

HB 713

Respectfully,

Betty King
 Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE
 SENATE CHAMBER
 Austin, Texas
 Thursday, May 27, 1999 - 4

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS REFUSED TO CONCUR IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

SB 709

Senate Conferees: Sibley - Chair/Cain/Ellis, Rodney/Lindsay/Madla

SB 1703

Senate Conferees: Ellis, Rodney - Chair/Duncan/Jackson/Shapleigh/Zaffirini

THE SENATE HAS GRANTED THE REQUEST OF THE HOUSE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

HB 400

Senate Conferees: Ellis, Rodney - Chair/Brown, J. E. "Buster"/Harris/Wentworth/Zaffirini

HB 597

Senate Conferees: Lucio - Chair/Armbrister/Brown, J. E. "Buster"/Haywood/Shapleigh

HB 746

Senate Conferees: West, Royce - Chair/Bernsen/Cain/Harris/Ogden

HB 1622

Senate Conferees: Harris - Chair/Brown, J. E. "Buster"/Ellis, Rodney/Jackson/Madla

HB 1865

Senate Conferees: West, Royce - Chair/Cain/Ellis, Rodney/Gallegos/Shapleigh

HB 2145

Senate Conferees: Whitmire - Chair/Armbrister/Jackson/Shapiro/Shapleigh

HB 2821

Senate Conferees: Cain - Chair/Ogden/Sibley/Wentworth/West, Royce

HB 2947

Senate Conferees: Harris - Chair/Armbrister/Duncan/Ellis, Rodney/West, Royce

HB 3029

Senate Conferees: Brown, J. E. "Buster" - C/Bivins/Fraser/Jackson/Sibley

HB 3182

Senate Conferees: Harris - Chair/Lindsay/Lucio/Madla/Shapiro

HB 3304

Senate Conferees: Sibley - Chair/Armbrister/Cain/Ellis, Rodney/Jackson

HB 3693

Senate Conferees: Fraser - Chair/Carona/Gallegos/Jackson/Shapiro

Respectfully,

Betty King

Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 26Pensions & Investments - **HCR 249**State Affairs - **HCR 271, HR 1003****ENROLLED****May 26 - HB 1100, HB 1491, HCR 298****SENT TO THE GOVERNOR****May 26 - HB 217, HB 323, HB 707, HB 820, HB 954, HB 1187, HB 1752, HB 1777, HB 1916, HB 2025, HB 2307, HB 2382, HB 2424, HB 2534, HB 2557, HB 2617, HB 2961, HB 3033, HB 3092, HB 3300, HB 3456, HB 3516, HB 3624, HCR 285, HCR 287, HCR 292, HCR 295, HCR 296**