HOUSE JOURNAL

SEVENTY-SIXTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

EIGHTY-EIGHTH DAY — SUNDAY, MAY 30, 1999

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

The roll of the house was called and a quorum was announced present (Record 523).

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; Corte; 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; 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. 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 — Crownover; Jones, D.

Absent — Garcia; Solis, J.

The invocation was offered by Representative Uher.

HCR 314 - ADOPTED
(by Telford)

The following privileged resolution was laid before the house:

HCR 314

WHEREAS, **HB 1193** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

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

RESOLVED by the 76th Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to correct **HB 1193** as follows:

(1) In Section 3 of the bill, in added Section 6(m)(3)(A), Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), strike "creditor" and substitute "consumer".

(2) In Section 4 of the bill, in the second sentence of added Section 6A(a), Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), strike "It does not apply" and substitute "This section does not apply".

HCR 314 was adopted without objection.

HR 1273 - ADOPTED
(by Marchant)

Representative Marchant moved to suspend all necessary rules to take up and consider at this time **HR 1273**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1273, Commending Catherine A. Ghiglieri on her tenure as Texas banking commissioner.

HR 1273 was read and was adopted without objection.

On motion of Representatives Pitts, Ehrhardt, and Speaker Laney, the names of all the members of the house were added to **HR 1273** as signers thereof.

RESOLUTIONS REFERRED TO COMMITTEES

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

HB 826 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Greenberg submitted the following conference committee report on **HB 826**:

Austin, Texas, May 29, 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 826** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Wentworth	Greenberg
West	Wolens
Ratliff	Longoria
Cain	
Harris	
On the part of the Senate	On the part of the House

HB 826, A bill to be entitled An Act relating to alternative dispute resolution proceedings of governmental bodies and the resolution of certain contract claims against the state.

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

SECTION 1. Section 441.031, Government Code, is amended to read as follows:

Sec. 441.031. DEFINITION [~~DEFINITIONS~~]. In this subchapter, "state[~~:~~

[~~(5) "State~~] record" means a document, book, paper, photograph, sound recording, or other material, regardless of physical form or characteristic, made or received by a state department or institution according to law or in connection with the transaction of official state business. The term does not include:

(1) library or museum material made or acquired and preserved solely for reference or exhibition purposes;

(2) [~~,~~] an extra copy of a document preserved only for convenience of reference;

(3) [~~,~~] a stock of publications or of processed documents;[~~,~~] or

(4) any records, correspondence, notes, memoranda, or [~~other~~] documents, other than a final written agreement described by Section 2009.054(c), associated with a matter conducted under an alternative dispute resolution procedure in which personnel of a state department or institution, local government, special district, or other political subdivision of the state participated as a party, facilitated as an impartial third party, or facilitated as the administrator of a dispute resolution system or organization.

SECTION 2. Section 441.091, Government Code, is amended to read as follows:

Sec. 441.091. DEFINITION [~~DEFINITIONS~~]. In this subchapter, "county[~~:~~

[~~(1) "County~~] record" means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a county or precinct or any county or precinct officers or employees, including the district clerk, pursuant to law, including an ordinance or order of the commissioners court of the county, or in the transaction of public business. The term does not include:

(1) [~~(A)~~] extra identical copies of documents created only for convenience of reference or research by county or precinct officers or employees;

(2) [~~(B)~~] notes, journals, diaries, and similar documents created by a county or precinct officer or employee for the officer's or employee's personal convenience;

(3) [~~(C)~~] blank forms;

(4) [~~(D)~~] stocks of publications;

(5) [~~(E)~~] library and museum materials acquired solely for the purposes of reference or display;

(6) [~~(F)~~] copies of documents in any media furnished to members of the public to which they are entitled under Chapter 552, or other state law; or

(7) [~~(G)~~] any records, correspondence, notes, memoranda, or [~~other~~] documents, other than a final written agreement described by Section

2009.054(c), associated with a matter conducted under an alternative dispute resolution procedure in which personnel of a state department or institution, local government, special district, or other political subdivision of the state participated as a party, facilitated as an impartial third party, or facilitated as the administrator of a dispute resolution system or organization.

SECTION 3. Section 201.003(8), Local Government Code, is amended to read as follows:

(8) "Local government record" means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a local government or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business. The term does not include:

(A) extra identical copies of documents created only for convenience of reference or research by officers or employees of the local government;

(B) notes, journals, diaries, and similar documents created by an officer or employee of the local government for the officer's or employee's personal convenience;

(C) blank forms;

(D) stocks of publications;

(E) library and museum materials acquired solely for the purposes of reference or display;

(F) copies of documents in any media furnished to members of the public to which they are entitled under Chapter 552, Government Code, or other state law; or

(G) any records, correspondence, notes, memoranda, or [~~other~~] documents, other than a final written agreement described by Section 2009.054(c), Government Code, associated with a matter conducted under an alternative dispute resolution procedure in which personnel of a state department or institution, local government, special district, or other political subdivision of the state participated as a party, facilitated as an impartial third party, or facilitated as the administrator of a dispute resolution system or organization.

SECTION 4. Section 2008.057(c), Government Code, is amended to read as follows:

(c) Notwithstanding Section 154.073(e) [~~154.073(d)~~], Civil Practice and Remedies Code:

(1) a private communication and a record of a private communication between a facilitator and a member or members of the committee are confidential and may not be disclosed unless the member or members of the committee, as appropriate, consent to the disclosure; and

(2) the notes of a facilitator are confidential except to the extent that the notes consist of a record of a communication with a member of the committee who has consented to disclosure in accordance with Subdivision (1).

SECTION 5. Chapter 2008, Government Code, as added by Chapter 934, Acts of the 75th Legislature, Regular Session, 1997, is redesignated as Chapter 2009, Government Code, and amended to read as follows:

CHAPTER 2009 [~~2008~~]. ALTERNATIVE DISPUTE RESOLUTION FOR USE BY GOVERNMENTAL BODIES [~~AT STATE AGENCIES~~]

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2009.001. [~~2008.001.~~] SHORT TITLE. This chapter may be cited as the Governmental Dispute Resolution Act.

Sec. 2009.002. [~~2008.002.~~] POLICY. It is the policy of this state that disputes before governmental bodies [~~state agencies~~] be resolved as fairly and expeditiously as possible and that each governmental body [~~state agency~~] support this policy by developing and using alternative dispute resolution procedures in appropriate aspects of the governmental body's [~~agency's~~] operations and programs.

Sec. 2009.003. [~~2008.003.~~] DEFINITIONS. In this chapter:

(1) "Alternative dispute resolution procedure" includes:

(A) a procedure described by Chapter 154, Civil Practice and Remedies Code; and

(B) a combination of the procedures described by Chapter 154, Civil Practice and Remedies Code.

(2) "Governmental body" has the meaning assigned by Section 552.003.

(3) [~~(2)~~] "State agency" means an officer, board, commission, department, or other agency in the executive branch of state government with statewide jurisdiction that makes rules or determines contested cases. The term includes:

(A) the attorney general;

(B) an institution of higher education as defined by Section 61.003, Education Code; and

(C) the State Office of Administrative Hearings.

(4) [~~(3)~~] The following terms have the meanings assigned by Section 2001.003:

(A) "contested case";

(B) "party";

(C) "person"; and

(D) "rule."

Sec. 2009.004. [~~2008.004. AGENCY~~] CONTRACTS; BUDGETING FOR COSTS. (a) A governmental body [~~state agency~~] may pay for costs necessary to meet the objectives of this chapter, including reasonable fees for training, policy review, system design, evaluation, and the use of impartial third parties.

(b) To the extent allowed by the General Appropriations Act, a state [~~the~~] agency may use [~~for this purpose~~] money budgeted for legal services, executive administration, or any other appropriate aspect of the state agency's operations to pay for costs incurred under Subsection (a).

(c) [~~(b)~~] A governmental body [~~state agency~~] may contract with another governmental body [~~state agency~~], including the Center for Public Policy Dispute Resolution at The University of Texas School of Law, with an

alternative dispute resolution system created under Chapter 152, Civil Practice and Remedies Code, or with a private entity for any service necessary to meet the objectives of this chapter.

Sec. 2009.005. [~~2008.005.~~] SOVEREIGN IMMUNITY. (a) This chapter does not waive immunity from suit and does not affect a waiver of immunity from suit contained in other law.

(b) The state's sovereign immunity under the Eleventh Amendment to the United States Constitution is not waived by this chapter.

(c) Nothing in this chapter authorizes binding arbitration as a method of alternative dispute resolution.

SUBCHAPTER B. ALTERNATIVE DISPUTE RESOLUTION

Sec. 2009.051. [~~2008.051.~~] DEVELOPMENT AND USE OF PROCEDURES. (a) Each governmental body [~~state agency~~] may develop and use alternative dispute resolution procedures. Alternative dispute resolution procedures developed and used by a governmental body [~~state agency~~] must be consistent with Chapter 154, Civil Practice and Remedies Code.

(b) Alternative dispute resolution procedures developed and used by a state agency also must be consistent[~~, and~~] with the administrative procedure law, Chapter 2001. The State Office of Administrative Hearings may issue model guidelines for the use of alternative dispute resolution procedures by state agencies.

(c) [~~(b)~~] If a state agency that is subject to Chapter 2001 adopts an alternative dispute resolution procedure, it may do so by rule.

Sec. 2009.052. [~~2008.052.~~] SUPPLEMENTAL NATURE OF PROCEDURES. (a) Alternative dispute resolution procedures developed and used under this chapter supplement and do not limit other dispute resolution procedures available for use by [~~at~~] a governmental body [~~state agency~~].

(b) This chapter may not be applied in a manner that denies a person a right granted under other state or federal law or under a local charter, ordinance, or other similar provision, including a right to an administrative or judicial hearing.

Sec. 2009.053. [~~2008.053.~~] IMPARTIAL THIRD PARTIES. (a) A governmental body [~~state agency~~] may appoint a governmental officer or employee or a private individual to serve as an impartial third party in an alternative dispute resolution procedure. The governmental body's [~~agency's~~] appointment of the impartial third party is subject to the approval of the parties, except that when a State Office of Administrative Hearings administrative law judge has issued an order referring a case involving a state agency to an alternative dispute resolution procedure under Section 2003.042(a)(5) [~~2003.042(5)~~], the administrative law judge may appoint the impartial third party for the parties if they cannot agree on an impartial third party within a reasonable period.

(b) [~~The impartial third party must possess the qualifications required under Section 154.052, Civil Practice and Remedies Code.~~

[~~(c)~~] A governmental body [~~state agency~~] also may obtain the services of a qualified impartial third party through an agreement with [~~the State Office of Administrative Hearings,~~] the Center for Public Policy Dispute Resolution at The University of Texas School of Law, an alternative dispute resolution

system created under Chapter 152, Civil Practice and Remedies Code, [~~or~~] another governmental body, [~~state~~] or a federal agency or through a pooling agreement with several governmental bodies [~~state agencies~~]. The agreements may provide that the using governmental body [~~agency~~] or the parties will reimburse the furnishing entity [~~agency~~], in kind or monetarily, for the full or partial cost of providing the qualified impartial third party.

(c) A state agency may also obtain the services of a qualified third party through an agreement with the State Office of Administrative Hearings.

(d) The impartial third party must possess the qualifications required under Section 154.052, Civil Practice and Remedies Code. The impartial third party is subject to the standards and duties prescribed by Section 154.053, Civil Practice and Remedies Code, and has the qualified immunity prescribed by Section 154.055, Civil Practice and Remedies Code, if applicable.

Sec. 2009.054. [~~2008.054.~~] CONFIDENTIALITY OF CERTAIN RECORDS AND COMMUNICATIONS. (a) Sections 154.053 and 154.073, Civil Practice and Remedies Code, apply to the communications, records, conduct, and demeanor of the impartial third party and the parties.

(b) Notwithstanding Section 154.073(e) [~~154.073(d)~~], Civil Practice and Remedies Code:

(1) a communication relevant to the dispute, and a record of the communication, made between an impartial third party and the parties to the dispute or between the parties to the dispute during the course of an alternative dispute resolution procedure are confidential and may not be disclosed unless all parties to the dispute consent to the disclosure; and

(2) the notes of an impartial third party are confidential except to the extent that the notes consist of a record of a communication with a party and all parties have consented to disclosure in accordance with Subdivision (1).

(c) Subsection (b)(1) does not apply to a final written agreement to which a governmental body [~~entity~~] is a signatory that is reached as a result of a dispute resolution procedure conducted under this chapter. Information in the final written agreement is subject to required disclosure, is excepted from required disclosure, or is confidential in accordance with Chapter 552 and other law.

(d) An impartial third party may not be required to testify in any proceedings relating to or arising out of the matter in dispute.

Sec. 2009.055. [~~2008.055. INTERAGENCY~~] SHARING OF INFORMATION; CONSISTENCY OF PROCEDURES. (a) A governmental body [~~state agency~~] may share the results of its alternative dispute resolution program with other governmental bodies [~~agencies~~] and with the Center for Public Policy Dispute Resolution at The University of Texas School of Law. The center may collect and analyze the information and report its conclusions and useful information to governmental bodies [~~state agencies~~] and the legislature.

(b) Governmental bodies [~~State agencies~~] should, to the extent feasible given [~~the~~] differences in their [~~agency~~] purpose, jurisdiction, and constituency, adopt policies and procedures for alternative dispute resolution that are consistent with the policies and procedures of other governmental bodies [~~state agencies~~].

SECTION 6. Section 154.073, Civil Practice and Remedies Code, is amended to read as follows:

Sec. 154.073. CONFIDENTIALITY OF CERTAIN RECORDS AND COMMUNICATIONS [~~IN DISPUTE RESOLUTION PROCEDURES~~]. (a) Except as provided by Subsections (c), [~~and~~] (d), and (e), a communication relating to the subject matter of any civil or criminal dispute made by a participant in an alternative dispute resolution procedure, whether before or after the institution of formal judicial proceedings, is confidential, is not subject to disclosure, and may not be used as evidence against the participant in any judicial or administrative proceeding.

(b) Any record made at an alternative dispute resolution procedure is confidential, and the participants or the third party facilitating the procedure may not be required to testify in any proceedings relating to or arising out of the matter in dispute or be subject to process requiring disclosure of confidential information or data relating to or arising out of the matter in dispute.

(c) An oral communication or written material used in or made a part of an alternative dispute resolution procedure is admissible or discoverable if it is admissible or discoverable independent of the procedure.

(d) A final written agreement to which a governmental body, as defined by Section 552.003, Government Code, is a signatory that is reached as a result of a dispute resolution procedure conducted under this chapter is subject to or excepted from required disclosure in accordance with Chapter 552, Government Code.

(e) If this section conflicts with other legal requirements for disclosure of communications, records, or materials, the issue of confidentiality may be presented to the court having jurisdiction of the proceedings to determine, in camera, whether the facts, circumstances, and context of the communications or materials sought to be disclosed warrant a protective order of the court or whether the communications or materials are subject to disclosure.

SECTION 7. Section 2003.001(2), Government Code, is amended to read as follows:

(2) "Alternative dispute resolution procedure" has the meaning assigned by Section 2009.003 [~~2008.003~~].

SECTION 8. Section 2003.042(a), Government Code, is amended to read as follows:

(a) An administrative law judge employed by the office or a temporary administrative law judge may:

(1) administer an oath;

(2) take testimony;

(3) rule on a question of evidence;

(4) issue an order relating to discovery or another hearing or prehearing matter, including an order imposing a sanction;

(5) issue an order that refers a case to an alternative dispute resolution procedure, determines how the costs of the procedure will be apportioned, and appoints an impartial third party as described by Section 2009.053 [~~2008.053~~] to facilitate that procedure;

(6) issue a proposal for decision that includes findings of fact and conclusions of law; [~~and~~]

(7) [~~(6)~~] if expressly authorized by a state agency rule adopted under Section 2001.058(f), make the final decision in a contested case;[.]

(8) [~~(7)~~] serve as an impartial third party as described by Section 2009.053 [~~2008.053~~] for a dispute referred by an administrative law judge, unless one of the parties objects to the appointment; and

(9) [~~(8)~~] serve as an impartial third party as described by Section 2009.053 [~~2008.053~~] for a dispute referred by a government agency under a contract.

SECTION 9. Subtitle F, Title 10, Government Code, is amended by adding Chapter 2260 to read as follows:

CHAPTER 2260. RESOLUTION OF CERTAIN CONTRACT CLAIMS AGAINST THE STATE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 2260.001. DEFINITIONS. In this chapter:

(1) "Contract" means a written contract between a unit of state government and a contractor for goods or services, or for a project as defined by Section 2166.001. The term does not include a contract subject to Section 201.112, Transportation Code.

(2) "Contractor" means an independent contractor who has entered into a contract directly with a unit of state government. The term does not include:

(A) a contractor's subcontractor, officer, employee, agent, or other person furnishing goods or services to a contractor;

(B) an employee of a unit of state government; or

(C) a student at an institution of higher education.

(3) "Institution of higher education" has the meaning assigned by Section 61.003, Education Code.

(4) "Unit of state government" means the state or an agency, department, commission, bureau, board, office, council, court, or other entity that is in any branch of state government and that is created by the constitution or a statute of this state, including a university system or institution of higher education. The term does not include a county, municipality, court of a county or municipality, special purpose district, or other political subdivision of this state.

Sec. 2260.002. APPLICABILITY. This chapter does not apply to a claim for personal injury or wrongful death arising from the breach of a contract.

Sec. 2260.003. DAMAGES. (a) The total amount of money recoverable on a claim for breach of contract under this chapter may not, after deducting the amount specified in Subsection (b), exceed the balance due and owing on the contract price, including orders for additional work.

(b) Any amount owed the unit of state government for work not performed under a contract or in substantial compliance with its terms shall be deducted from the amount in Subsection (a).

(c) Any award of damages under this chapter may not include:

(1) consequential or similar damages;

(2) exemplary damages;

(3) any damages based on an unjust enrichment theory;

(4) attorney's fees; or

(5) home office overhead.

Sec. 2260.004. REQUIRED CONTRACT PROVISION. (a) Each unit of state government that enters into a contract to which this chapter applies shall include as a term of the contract a provision stating that the dispute resolution process used by the unit of state government under this chapter must be used to attempt to resolve a dispute arising under the contract.

(b) The attorney general shall provide assistance to a unit of state government in developing the contract provision required by this section.

Sec. 2260.005. EXCLUSIVE PROCEDURE. The procedures contained in this chapter are exclusive and required prerequisites to suit in accordance with Chapter 107, Civil Practice and Remedies Code.

Sec. 2260.006. SOVEREIGN IMMUNITY. This chapter does not waive sovereign immunity to suit or liability.

[Sections 2260.007-2260.050 reserved for expansion]

SUBCHAPTER B. NEGOTIATION OF CLAIM

Sec. 2260.051. CLAIM FOR BREACH OF CONTRACT; NOTICE. (a) A contractor may make a claim against a unit of state government for breach of a contract between the unit of state government and the contractor. The unit of state government may assert a counterclaim against the contractor.

(b) A contractor must provide written notice to the unit of state government of a claim for breach of contract not later than the 180th day after the date of the event giving rise to the claim.

(c) The notice must state with particularity:

(1) the nature of the alleged breach;

(2) the amount the contractor seeks as damages; and

(3) the legal theory of recovery.

(d) A unit of state government must assert, in a writing delivered to the contractor, any counterclaim not later than the 90th day after the date of notice under Subsection (b). A unit of state government that does not comply with this subsection waives the right to assert the counterclaim.

Sec. 2260.052. NEGOTIATION. (a) The chief administrative officer or, if designated in the contract, another officer of the unit of state government shall examine the claim and any counterclaim and negotiate with the contractor in an effort to resolve them. Except as provided by Subsection (b), the negotiation must begin not later than the 60th day after the later of:

(1) the date of termination of the contract;

(2) the completion date in the original contract; or

(3) the date the claim is received.

(b) A unit of state government against which a claim is filed is entitled to delay the beginning of negotiation until after the 180th day after the date of the event giving rise to the claim.

(c) Each unit of state government with rulemaking authority shall develop rules to govern the negotiation and mediation of a claim under this section. If a unit of state government does not have rulemaking authority, that unit shall follow the rules adopted by the attorney general. A model rule for negotiation and mediation under this chapter shall be provided for voluntary adoption by units of state government through the coordinated efforts of the State Office of Administrative Hearings and the office of the attorney general.

Sec. 2260.053. PARTIAL RESOLUTION OF CLAIM. (a) If the negotiation under Section 2260.052 results in the resolution of some disputed issues by agreement or in a settlement, the parties shall reduce the agreement or settlement to writing and each party shall sign the agreement or settlement.

(b) A partial settlement or resolution of a claim does not waive a party's rights under this chapter as to the parts of the claim that are not resolved.

Sec. 2260.054. PAYMENT OF CLAIM FROM APPROPRIATED FUNDS. A unit of state government may pay a claim resolved in accordance with this subchapter only from money appropriated to it for payment of contract claims or for payment of the contract that is the subject of the claim. If money previously appropriated for payment of contract claims or payment of the contract is insufficient to pay the claim or settlement, the balance of the claim may be paid only from money appropriated by the legislature for payment of the claim.

Sec. 2260.055. INCOMPLETE RESOLUTION. If a claim is not entirely resolved under Section 2260.052 on or before the 270th day after the date the claim is filed with the unit of state government, unless the parties agree in writing to an extension of time, the contractor may file a request for a hearing under Subchapter C.

Sec. 2260.056. MEDIATION. (a) Before the 270th day after the date the claim is filed with the unit of state government and before the expiration of any extension of time under Section 2260.055, the parties may agree to mediate a claim made under this chapter.

(b) The mediation shall be conducted in accordance with rules adopted under Section 2260.052(c).

[Sections 2260.057-2260.100 reserved for expansion]

SUBCHAPTER C. CONTESTED CASE HEARING

Sec. 2260.101. DEFINITION. In this subchapter, "office" means the State Office of Administrative Hearings.

Sec. 2260.102. REQUEST FOR HEARING. (a) If a contractor is not satisfied with the results of negotiation with a unit of state government under Section 2260.052, the contractor may file a request for a hearing with the unit of state government.

(b) The request must:

(1) state the factual and legal basis for the claim; and

(2) request that the claim be referred to the State Office of Administrative Hearings for a contested case hearing.

(c) On receipt of a request under Subsection (a), the unit of state government shall refer the claim to the State Office of Administrative Hearings for a contested case hearing under Chapter 2001, Government Code, as to the issues raised in the request.

Sec. 2260.103. HEARING FEE. (a) The chief administrative law judge of the office may set a fee for a hearing before the office under this subchapter.

(b) The chief administrative law judge of the office shall set the fee in an amount that:

(1) is not less than $250; and

(2) allows the office to recover all or a substantial part of its costs in holding hearings.

(c) The chief administrative law judge of the office by rule may establish a graduated fee scale, increasing the fee in relation to the amount in controversy.

(d) The office may:

(1) assess the fee against the party who does not prevail in the hearing; or

(2) apportion the fee against the parties in an equitable manner.

Sec. 2260.104. HEARING. (a) An administrative law judge of the office shall conduct a hearing in accordance with the procedures adopted by the chief administrative law judge of the office.

(b) Within a reasonable time after the conclusion of the hearing, the administrative law judge shall issue a written decision containing the administrative law judge's findings and recommendations.

(c) The administrative law judge shall base the decision on the pleadings filed with the office and the evidence received.

(d) The decision must include:

(1) the findings of fact and conclusions of law on which the administrative law judge's decision is based; and

(2) a summary of the evidence.

(e) In a contested case hearing under this subchapter:

(1) the decision may not be appealed; and

(2) the state agency may not change the finding of fact or conclusion of law, nor vacate or modify an order as provided in Section 2001.058(e).

(f) Subchapter G, Chapter 2001, does not apply to a hearing under this section.

Sec. 2260.105. PAYMENT OF CLAIM. (a) The unit of state government shall pay the amount of the claim or part of the claim if:

(1) the administrative law judge finds, by a preponderance of the evidence, that under the laws of this state the claim or part of the claim is valid; and

(2) the total amount of damages, after taking into account any counterclaim, is less than $250,000.

(b) A unit of state government shall pay a claim under this subchapter from money appropriated to it for payment of contract claims or for payment of the contract that is the subject of the claim. If money previously appropriated for payment of contract claims or payment of the contract is insufficient to pay the claim, the balance of the claim may be paid only from money appropriated by the legislature for payment of the claim.

Sec. 2260.1055. REPORT AND RECOMMENDATION TO LEGISLATURE. (a) If, after a hearing, the administrative law judge determines that a claim involves damages of $250,000 or more, the administrative law judge shall issue a written report containing the administrative law judge's findings and recommendations to the legislature.

(b) The administrative law judge may recommend that the legislature:

(1) appropriate money to pay the claim or part of the claim if the administrative law judge finds, by a preponderance of the evidence, that under the laws of this state the claim or part of the claim is valid; or

(2) not appropriate money to pay the claim and that consent to suit under Chapter 107, Civil Practice and Remedies Code, be denied.

Sec. 2260.106. PREJUDGMENT INTEREST. Chapter 304, Finance Code, applies to a judgment awarded to a claimant under this chapter, except that the applicable rate of interest may not exceed six percent.

Sec. 2260.107. EXECUTION ON STATE PROPERTY NOT AUTHORIZED. This chapter does not authorize execution on property owned by the state or a unit of state government.

Sec. 2260.108. DEFENSE BY ATTORNEY GENERAL. (a) The attorney general shall defend a unit of state government in a contested case hearing covered by this chapter.

(b) The attorney general may settle or compromise the portion of a claim that may result in state liability under this chapter.

SECTION 10. Chapter 2009, Government Code, as amended by this Act, does not require a party to a dispute to participate in an alternative dispute resolution procedure, and does not preclude a party from seeking another remedy, including litigation, that otherwise is available.

SECTION 11. Chapter 2009, Government Code, as amended and redesignated by this Act, and Section 154.073, Civil Practice and Remedies Code, as amended by this Act, apply only to an alternative dispute resolution proceeding that begins on or after September 1, 1999. An alternative dispute resolution proceeding that began before September 1, 1999, and a record associated with that proceeding, are governed by the law applicable to the proceeding immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 12. (a) Chapter 2260, Government Code, as added by this Act, applies only to a claim pending or arising on or after the effective date of this Act, without regard to whether the contract was entered into before, on, or after that date.

(b) Notwithstanding Section 2260.051(b), Government Code, as added by this Act, a claimant must provide written notice to the unit of state government for a claim pending before the effective date of this Act not later than the 180th day after that date.

SECTION 13. Chapter 2260, Government Code, as added by this Act, does not apply to a claim or dispute with respect to which the 76th Legislature or a previous legislature has enacted a concurrent resolution granting permission to the contractor to bring a suit against the state or a unit of state government.

SECTION 14. (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately.

(b) Sections 1-8 of this Act take effect September 1, 1999.

SECTION 15. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Representative Greenberg moved to adopt the conference committee report on **HB 826**.

The motion prevailed without objection.

HB 826 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE FARABEE: Will a contractor, as defined under this bill, be able to file a breach of contract lawsuit against a governmental body without utilizing this process?

REPRESENTATIVE GREENBERG: No. This legislation specifies that this process is prerequisite before attempting to obtain consent to suit.

FARABEE: Does this legislation waive sovereign immunity from suit?

GREENBERG: No. The state does not waive its sovereign immunity. Consent from the legislature is still mandatory before bringing a contract suit against the state, even if the contractor has performed or the conduct of the state actor would indicate otherwise.

REMARKS ORDERED PRINTED

Representative Farabee moved to print remarks by Representative Greenberg and Representative Farabee.

The motion prevailed without objection.

HB 1140 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Thompson submitted the following conference committee report on **HB 1140**:

Austin, Texas, May 28, 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 1140** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Armbrister	Thompson
Whitmire	J. Solis
Bivins	Hinojosa
Moncrief	
On the part of the Senate	On the part of the House

HB 1140, A bill to be entitled An Act relating to notice to voter registrars concerning persons convicted of a felony.

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

SECTION 1. Section 16.003, Election Code, is amended to read as follows:

Sec. 16.003. FELONY CONVICTION. (a) Each month [~~both the clerk of each court having felony jurisdiction and~~] the institutional division of the Texas Department of Criminal Justice shall prepare an abstract of each final judgment [~~of a court served by the clerk or~~] received by the institutional division, [~~as applicable,~~] occurring in the month, convicting a person 18

years of age or older who is a resident of the state of a felony.

(b) The [~~clerk and the~~] institutional division of the Texas Department of Criminal Justice shall file each abstract with the voter registrar of the person's county of residence not later than the 10th day of the month following the month in which the abstract is prepared.

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 Thompson moved to adopt the conference committee report on **HB 1140**.

The motion prevailed without objection.

HB 1283 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Counts submitted the following conference committee report on **HB 1283**:

Austin, Texas, May 29, 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 1283** 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	Counts
Armbrister	Cook
Bernsen	T. King
Ratliff	Walker
On the part of the Senate	On the part of the House

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

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

SECTION 1. Section 26.040, Water Code, is amended by amending Subsections (a), (b), and (e), adding new Subsections (f) and (h), relettering existing Subsections (f)-(k), and amending existing Subsection (g), relettered as Subsection (i), to read as follows:

(a) The commission may issue a general permit to authorize the discharge of waste into or adjacent to waters in the state by category of dischargers in a particular geographical area of the state or in the entire state if the dischargers in the category <u>discharge storm water or</u>:

(1) engage in the same or substantially similar types of operations;

(2) discharge the same types of waste;

(3) are subject to the same requirements regarding effluent limitations or operating conditions;

(4) are subject to the same or similar monitoring requirements; and

(5) are, in the commission's opinion, more appropriately regulated under a general permit than under individual permits based on commission findings that:

(A) the general permit has been drafted to assure that it can be readily enforced and that the commission can adequately monitor compliance with the terms of the general permit; and

(B) the category of discharges covered by the general permit will not include a discharge of[~~:~~

[~~(i)~~] pollutants that will cause significant adverse effects to water quality[~~; or~~

[~~(ii) more than 500,000 gallons into surface water during any 24-hour period~~].

(b) The commission shall publish notice of a proposed general permit in a daily or weekly newspaper of general circulation in the area affected by the activity that is the subject of the proposed general permit and in the Texas Register. For a statewide general permit, the commission shall designate one or more newspapers of statewide or regional circulation and shall publish notice of the proposed statewide general permit in each designated newspaper in addition to the Texas Register. The notice must include an invitation for written comments by the public to the commission regarding the proposed general permit and shall be published not later than the 30th day before the commission adopts the general permit. The commission by rule may require additional notice to be given.

(e) A general permit may provide that a [~~A~~] discharger who is not covered by an individual permit may obtain authorization to discharge waste under a general permit by submitting to the commission written notice of intent to be covered by the general permit. A general permit shall specify the deadline for submitting and the information required to be included in a notice of intent. A general permit may authorize a discharger to [~~may~~] begin discharging under the general permit immediately on filing a complete and accurate notice of intent, or it may specify a date or period of time [~~on the 31st day~~] after the commission receives the discharger's notice of intent on which the discharger may begin discharging unless the executive director before that time notifies the discharger that it is not eligible for authorization under the general permit.

(f) A general permit may authorize a discharger to discharge without submitting a notice of intent if the commission finds that a notice of intent requirement would be inappropriate.

(g) Authorization to discharge under a general permit does not confer a vested right. After written notice to the discharger, the executive director may suspend a discharger's authority to discharge under a general permit and may require a person discharging under a general permit to obtain authorization to discharge under an individual permit as required by Section 26.027 or other law.

(h) Notwithstanding other provisions of this chapter, the commission, after

hearing, shall deny or suspend a discharger's authority to discharge under a general permit if the commission determines that the discharger operates any facility for which the discharger's compliance history contains violations constituting a recurring pattern of egregious conduct that demonstrates a consistent disregard for the regulatory process, including a failure to make a timely and substantial attempt to correct the violations. A hearing under this subsection is not subject to Chapter 2001, Government Code.

(i) [~~(g)~~] A general permit may be issued for a term not to exceed five years. After notice and comment as provided by Subsections (b)-(d), a general permit may be amended, revoked, or canceled by the commission or renewed by the commission for an additional term or terms not to exceed five years each. A general permit remains in effect until amended, revoked, or canceled by the commission or, unless renewed by the commission, until expired. If before a general permit expires the commission proposes to renew that general permit, that general permit remains in effect until the date on which the commission takes final action on the proposed renewal.

(j) [~~(h)~~] The commission may through a renewal or amendment process for a general permit add or delete requirements or limitations to the permit. The commission shall provide a reasonable time to allow a discharger covered by the general permit to make the changes necessary to comply with the additional requirements.

(k) [~~(i)~~] The commission may impose a reasonable and necessary fee under Section 26.0291 on a discharger covered by a general permit.

(l) [~~(j)~~] The issuance, amendment, renewal, suspension, revocation, or cancellation of a general permit or of authority to discharge under a general permit is not subject to Subchapters C-F, Chapter 2001, Government Code.

(m) [~~(k)~~] The commission may adopt rules as necessary to implement and administer 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.

Representative Counts moved to adopt the conference committee report on **HB 1283**.

The motion prevailed without objection.

HB 2896 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Coleman submitted the following conference committee report on **HB 2896**:

Austin, Texas, May 28, 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 2896** have met

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

Moncrief	Coleman
Lindsay	Delisi
Nelson	Gray
Shapleigh	Maxey
West	West
On the part of the Senate	On the part of the House

HB 2896, A bill to be entitled An Act relating to the administration and operation of the state Medicaid program.

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

SECTION 1. Subchapter B, Chapter 12, Health and Safety Code, is amended by adding Section 12.0123 to read as follows:

Sec. 12.0123. EXTERNAL AUDITS OF CERTAIN MEDICAID CONTRACTORS. (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 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 annual 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.

(c) The department shall ensure that audit procedures related to financial audits and performance audits are used consistently in audits under this section.

(d) An audit required by this section must be completed before the end of the fiscal year immediately following the fiscal year for which the audit is performed.

SECTION 2. Section 533.003, Government Code, is amended to read as follows:

Sec. 533.003. CONSIDERATIONS IN AWARDING CONTRACTS. In awarding contracts to managed care organizations, the commission shall:

(1) give preference to organizations that have significant participation in the organization's provider network from each health care provider in the region who has traditionally provided care to Medicaid and charity care patients;

(2) give extra consideration to organizations that agree to assure continuity of care for at least three months beyond the period of Medicaid eligibility for recipients; [~~and~~]

(3) consider the need to use different managed care plans to meet the needs of different populations; and

(4) consider the ability of organizations to process Medicaid claims electronically.

SECTION 3. Section 533.004, Government Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) In providing health care services through Medicaid managed care to recipients in a health care service region, the commission shall contract with a [~~at least one~~] managed care organization in that region that is licensed under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code) to provide health care in that region and that is:

(1) wholly owned and operated by a hospital district in that region;

(2) created by a nonprofit corporation that:

(A) has a contract, agreement, or other arrangement with a hospital district in that region or with a municipality in that region that owns a hospital licensed under Chapter 241, Health and Safety Code, and has an obligation to provide health care to indigent patients; and

(B) under the contract, agreement, or other arrangement, assumes the obligation to provide health care to indigent patients and leases, manages, or operates a hospital facility owned by the hospital district or municipality; or

(3) created by a nonprofit corporation that has a contract, agreement, or other arrangement with a hospital district in that region under which the nonprofit corporation acts as an agent of the district and assumes the district's obligation to arrange for services under the Medicaid expansion for children as authorized by Chapter 444, Acts of the 74th Legislature, Regular Session, 1995.

(e) In providing health care services through Medicaid managed care to recipients in a health care service region, with the exception of the Harris service area for the STAR Medicaid managed care program, as defined by the commission as of September 1, 1999, the commission shall also contract with a managed care organization in that region that holds a certificate of authority as a health maintenance organization under Section 5, Texas Health Maintenance Organization Act (Article 20A.05, Vernon's Texas Insurance Code), and that:

(1) is certified under Section 5.01(a), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes);

(2) is created by The University of Texas Medical Branch at Galveston; and

(3) has obtained a certificate of authority as a health maintenance organization to serve one or more counties in that region from the Texas Department of Insurance before September 2, 1999.

SECTION 4. Section 533.005, Government Code, is amended to read as follows:

Sec. 533.005. REQUIRED CONTRACT PROVISIONS. A contract between a managed care organization and the commission for the organization to provide health care services to recipients must contain:

(1) procedures to ensure accountability to the state for the provision of health care services, including procedures for financial reporting, quality assurance, utilization review, and assurance of contract and subcontract compliance;

(2) capitation and provider payment rates that ensure the cost-effective provision of quality health care;

(3) a requirement that the managed care organization provide ready access to a person who assists recipients in resolving issues relating to enrollment, plan administration, education and training, access to services, and grievance procedures;

(4) a requirement that the managed care organization provide ready access to a person who assists providers in resolving issues relating to payment, plan administration, education and training, and grievance procedures;

(5) a requirement that the managed care organization provide information and referral about the availability of educational, social, and other community services that could benefit a recipient;

(6) procedures for recipient outreach and education;

(7) a requirement that the managed care organization make payment to a physician or provider for health care services rendered to a recipient under a managed care plan not later than the 45th day after the date a claim for payment is received with documentation reasonably necessary for the managed care organization to process the claim, or within a period, not to exceed 60 days, specified by a written agreement between the physician or provider and the managed care organization;

(8) a requirement that the commission, on the date of a recipient's enrollment in a managed care plan issued by the managed care organization, inform the organization of the recipient's Medicaid certification [~~recertification~~] date; and

(9) a requirement that the managed care organization comply with Section 533.006 as a condition of contract retention and renewal.

SECTION 5. Section 533.006(a), Government Code, is amended to read as follows:

(a) The commission shall require that each managed care organization that contracts with the commission to provide health care services to recipients in a region:

(1) seek participation in the organization's provider network from:

(A) each health care provider in the region who has traditionally provided care to Medicaid recipients; [~~and~~]

(B) each hospital in the region that has been designated as a disproportionate share hospital under the state Medicaid program; and

(C) each specialized pediatric laboratory in the region, including those laboratories located in children's hospitals; and

(2) include in its provider network for not less than three years:

(A) each health care provider in the region who:

(i) previously provided care to Medicaid and charity care recipients at a significant level as prescribed by the commission;

(ii) agrees to accept the prevailing provider contract rate of the managed care organization; and

(iii) has the credentials required by the managed care organization, provided that lack of board certification or accreditation by the Joint Commission on Accreditation of Healthcare Organizations may not be the sole ground for exclusion from the provider network;

(B) each accredited primary care residency program in the region; and

(C) each disproportionate share hospital designated by the commission as a statewide significant traditional provider.

SECTION 6. Section 533.007(e), Government Code, is amended to read as follows:

(e) The commission shall conduct a compliance and readiness review of each managed care organization that contracts with the commission not later than the 15th day before the date on which the commission plans to begin the enrollment process in a region and again not later than the 15th day before the date on which the commission plans to begin to provide health care services to recipients in that region through managed care. The review must include an on-site inspection and tests of service authorization and claims payment systems, including the ability of the managed care organization to process claims electronically, complaint processing systems, and any other process or system required by the contract.

SECTION 7. Section 533.0075, Government Code, is amended to read as follows:

Sec. 533.0075. RECIPIENT ENROLLMENT. The commission shall:

(1) encourage recipients to choose appropriate managed care plans and primary health care providers by:

(A) providing initial information to recipients and providers in a region about the need for recipients to choose plans and providers not later than the 90th day before the date on which the commission plans to begin to provide health care services to recipients in that region through managed care;

(B) providing follow-up information before assignment of plans and providers and after assignment, if necessary, to recipients who delay in choosing plans and providers; and

(C) allowing plans and providers to provide information to recipients or engage in marketing activities under marketing guidelines established by the commission under Section 533.008 after the commission approves the information or activities;

(2) consider the following factors in assigning managed care plans and primary health care providers to recipients who fail to choose plans and providers:

(A) the importance of maintaining existing provider-patient and physician-patient relationships, including relationships with specialists, public health clinics, and community health centers;

(B) to the extent possible, the need to assign family members to the same providers and plans; and

(C) geographic convenience of plans and providers for recipients; [~~and~~]

(3) retain responsibility for enrollment and disenrollment of recipients in managed care plans, except that the commission may delegate the responsibility to an independent contractor who receives no form of payment from, and has no financial ties to, any managed care organization;

(4) develop and implement an expedited process for determining eligibility for and enrolling pregnant women and newborn infants in managed care plans;

(5) ensure immediate access to prenatal services and newborn care for pregnant women and newborn infants enrolled in managed care plans, including ensuring that a pregnant woman may obtain an appointment with an obstetrical care provider for an initial maternity evaluation not later than the 30th day after the date the woman applies for Medicaid; and

(6) temporarily assign Medicaid-eligible newborn infants to the traditional fee-for-service component of the state Medicaid program for a period not to exceed the earlier of:

(A) 60 days; or

(B) the date on which the Texas Department of Human Services has completed the newborn's Medicaid eligibility determination, including assignment of the newborn's Medicaid eligibility number.

SECTION 8. Subchapter A, Chapter 533, Government Code, is amended by adding Sections 533.012-533.015 to read as follows:

Sec. 533.012. MORATORIUM ON IMPLEMENTATION OF CERTAIN PILOT PROGRAMS; REVIEW; REPORT. (a) Notwithstanding any other law, the commission may not implement Medicaid managed care pilot programs, Medicaid behavioral health pilot programs, or Medicaid Star + Plus pilot programs in a region for which the commission has not:

(1) received a bid from a managed care organization to provide health care services to recipients in the region through a managed care plan; or

(2) entered into a contract with a managed care organization to provide health care services to recipients in the region through a managed care plan.

(b) The commission shall:

(1) review any outstanding administrative and financial issues with respect to Medicaid managed care pilot programs, Medicaid behavioral health pilot programs, and Medicaid Star + Plus pilot programs implemented in health care service regions;

(2) review the impact of the Medicaid managed care delivery system, including managed care organizations, prepaid health plans, and primary care case management, on:

(A) physical access and program-related access to appropriate services by recipients, including recipients who have special health care needs;

(B) quality of health care delivery and patient outcomes;

(C) utilization patterns of recipients;

(D) statewide Medicaid costs;

(E) coordination of care and care coordination in Medicaid Star + Plus pilot programs;

(F) the level of administrative complexity for providers, recipients, and managed care organizations;

(G) public hospitals, medical schools, and other traditional providers of indigent health care; and

(H) competition in the marketplace and network retention; and

(3) evaluate the feasibility of developing a separate reimbursement

methodology for public hospitals under a Medicaid managed care delivery system.

(c) In performing its duties and functions under Subsection (b), the commission shall seek input from the state Medicaid managed care advisory committee created under Subchapter C. The commission may coordinate the review required under Subsection (b) with any other study or review the commission is required to complete.

(d) Notwithstanding Subsection (a), the commission may implement Medicaid managed care pilot programs, Medicaid behavioral health pilot programs, and Medicaid Star + Plus pilot programs in a region described by that subsection if the commission finds that:

(1) outstanding administrative and financial issues with respect to the implementation of those programs in health care service regions have been resolved; and

(2) implementation of those programs in a region described by Subsection (a) would benefit both recipients and providers.

(e) Not later than November 1, 2000, the commission shall submit a report to the governor and the legislature that:

(1) states whether the outstanding administrative and financial issues with respect to the pilot programs described by Subsection (b)(1) have been sufficiently resolved;

(2) summarizes the findings of the review conducted under Subsection (b);

(3) recommends which elements of the Medicaid managed care delivery system should be applied to the traditional fee-for-service component of the state Medicaid program to achieve the goals specified in Section 533.002(1); and

(4) recommends whether Medicaid managed care pilot programs, Medicaid behavioral health pilot programs, or Medicaid Star + Plus pilot programs should be implemented in health care service regions described by Subsection (a).

(f) To the extent practicable, this section may not be construed to affect the duty of the commission to plan the continued expansion of Medicaid managed care pilot programs, Medicaid behavioral health pilot programs, and Medicaid Star + Plus pilot programs in health care service regions described by Subsection (a) after July 1, 2001.

(g) Notwithstanding any other law, the commission may not use federal medical assistance funds to implement any long-term care integrated network pilot studies.

(h) This section expires July 1, 2001.

Sec. 533.013. PREMIUM PAYMENT RATE DETERMINATION; REVIEW AND COMMENT. (a) In determining premium payment rates paid to a managed care organization under a managed care plan, the commission shall consider:

(1) the regional variation in costs of health care services;

(2) the range and type of health care services to be covered by premium payment rates;

(3) the number of managed care plans in a region;

(4) the current and projected number of recipients in each region, including the current and projected number for each category of recipient;

(5) the ability of the managed care plan to meet costs of operation under the proposed premium payment rates;

(6) the applicable requirements of the federal Balanced Budget Act of 1997 and implementing regulations that require adequacy of premium payments to managed care organizations participating in the state Medicaid program;

(7) the adequacy of the management fee paid for assisting enrollees of Supplemental Security Income (SSI) (42 U.S.C. Section 1381 et seq.) who are voluntarily enrolled in the managed care plan;

(8) the impact of reducing premium payment rates for the category of recipients who are pregnant; and

(9) the ability of the managed care plan to pay under the proposed premium payment rates inpatient and outpatient hospital provider payment rates that are comparable to the inpatient and outpatient hospital provider payment rates paid by the commission under a primary care case management model or a partially capitated model.

(b) In determining the maximum premium payment rates paid to a managed care organization that is licensed under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code), the commission shall consider and adjust for the regional variation in costs of services under the traditional fee-for-service component of the state Medicaid program, utilization patterns, and other factors that influence the potential for cost savings. For a service area with a service area factor of .93 or less, or another appropriate service area factor, as determined by the commission, the commission may not discount premium payment rates in an amount that is more than the amount necessary to meet federal budget neutrality requirements for projected fee-for-service costs unless:

(1) a historical review of managed care financial results among managed care organizations in the service area served by the organization demonstrates that additional savings are warranted;

(2) a review of Medicaid fee-for-service delivery in the service area served by the organization has historically shown a significant overutilization by recipients of certain services covered by the premium payment rates in comparison to utilization patterns throughout the rest of the state; or

(3) a review of Medicaid fee-for-service delivery in the service area served by the organization has historically shown an above-market cost for services for which there is substantial evidence that Medicaid managed care delivery will reduce the cost of those services.

(c) The premium payment rates paid to a managed care organization that is licensed under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code) shall be established by a competitive bid process but may not exceed the maximum premium payment rates established by the commission under Subsection (b).

(d) Subsection (b) applies only to a managed care organization with respect to Medicaid managed care pilot programs, Medicaid behavioral health pilot programs, and Medicaid Star + Plus pilot programs implemented in a health care service region after June 1, 1999.

Sec. 533.014. PROFIT SHARING. (a) The commission shall adopt rules regarding the sharing of profits earned by a managed care organization through a managed care plan providing health care services under a contract with the commission under this chapter.

(b) Any amount received by the state under this section shall be deposited in the general revenue fund for the purpose of funding the state Medicaid program.

Sec. 533.015. COORDINATION OF EXTERNAL OVERSIGHT ACTIVITIES. To the extent possible, the commission shall coordinate all external oversight activities to minimize duplication of oversight of managed care plans under the state Medicaid program and disruption of operations under those plans.

SECTION 9. Chapter 533, Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. STATEWIDE ADVISORY COMMITTEE

Sec. 533.041. APPOINTMENT AND COMPOSITION. (a) The commission shall appoint a state Medicaid managed care advisory committee. The advisory committee consists of representatives of:

(1) hospitals;

(2) managed care organizations;

(3) primary care providers;

(4) state agencies;

(5) consumer advocates representing low-income recipients;

(6) consumer advocates representing recipients with a disability;

(7) parents of children who are recipients;

(8) rural providers;

(9) advocates for children with special health care needs;

(10) pediatric health care providers, including specialty providers;

(11) long-term care providers, including nursing home providers;

(12) obstetrical care providers;

(13) community-based organizations serving low-income children and their families; and

(14) community-based organizations engaged in perinatal services and outreach.

(b) The advisory committee must include a member of each regional Medicaid managed care advisory committee appointed by the commission under Subchapter B.

Sec. 533.042. MEETINGS. The advisory committee shall meet at least quarterly, shall develop procedures that provide the public with reasonable opportunity to appear before the committtee and speak on any issue under the jurisdiction of the committee, and is subject to Chapter 551.

Sec. 533.043. POWERS AND DUTIES. The advisory committee shall:

(1) provide recommendations to the commission on the statewide implementation and operation of Medicaid managed care;

(2) assist the commission with issues relevant to Medicaid managed care to improve the policies established for and programs operating under Medicaid managed care, including the early and periodic screening, diagnosis, and treatment program, provider and patient education issues, and patient eligibility issues; and

(3) disseminate or make available to each regional advisory committee appointed under Subchapter B information on best practices with respect to Medicaid managed care that is obtained from a regional advisory committee.

Sec. 533.044. OTHER LAW. Except as provided by this subchapter, the advisory committee is subject to Chapter 2110.

SECTION 10. Section 2.07(c), Chapter 1153, Acts of the 75th Legislature, Regular Session, 1997, is amended to read as follows:

(c) As soon as possible after development of the new provider contract, the commission and each agency operating part of the state Medicaid program by rule shall require each provider who enrolled in the program before completion of the new contract to reenroll in the program under the new contract or modify the provider's existing contract in accordance with commission or agency procedures as necessary to comply with the requirements of the new contract. The commission shall study the feasibility of authorizing providers to reenroll in the program online or through other electronic means. On completion of the study, if the commission determines that an online or other electronic method for reenrollment of providers is feasible, the commission shall develop and implement the electronic method of reenrollment for providers not later than September 1, 2000. A provider must reenroll in the state Medicaid program or make the necessary contract modifications not later than March 31, 2000 [~~September 1, 1999~~], to retain eligibility to participate in the program, unless the commission implements under this subsection an electronic method of reenrollment for providers, in which event a provider must reenroll or make the contractual modifications not later than September 1, 2000. The commission by rule may extend a reenrollment deadline prescribed by this subsection if a significant number of providers, as determined by the commission, have not met the reenrollment requirements by the applicable deadline.

SECTION 11. (a) Not later than January 1, 2000, the Health and Human Services Commission shall implement the expedited process for determining eligibility for and enrollment of certain recipients in Medicaid managed care plans required by Section 533.0075(4), Government Code, as added by this Act.

(b) The Health and Human Services Commission shall report quarterly to the standing committees of the senate and house of representatives with primary jurisdiction over Medicaid managed care regarding the status of the expedited process described by Subsection (a) of this section. The commission shall submit quarterly reports under this subsection until the commission determines the process is fully implemented and functioning successfully.

SECTION 12. If before implementing any provision of this Act a state agency determines that a waiver or other authorization from a federal agency is necessary for implementation, the Health and Human Services Commission shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 13. 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 Coleman moved to adopt the conference committee report on **HB 2896**.

A record vote was requested.

The motion prevailed by (Record 524): 144 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; 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. 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(C).

Absent, Excused — Crownover; Jones, D.

Absent — Corte; Garcia; Solis, J.

STATEMENT OF VOTE

When Record No. 524 was taken, I would have voted yes.

J. Solis

HB 3029 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Oliveira submitted the following conference committee report on **HB 3029**:

Austin, Texas, May 28, 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 3029** 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	Oliveira
Sibley	Hinojosa
Fraser	Luna
Bivins	Seaman
	J. Solis
On the part of the Senate	On the part of the House

HB 3029, A bill to be entitled An Act relating to certain industrial development corporations, projects of industrial development corporations, and the taxes levied for projects.

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

SECTION 1. Section 2(10), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

(10) "Project" shall mean the land, buildings, equipment, facilities, targeted infrastructure, and improvements (one or more) to promote new and expanded business development or found by the board of directors to be required or suitable for the promotion of development and expansion of manufacturing and industrial facilities, job creation and retention, job training, educational facilities, transportation facilities (including but not limited to airports, ports, mass commuting facilities, and parking facilities), sewage or solid waste disposal facilities, recycling facilities, air or water pollution control facilities, facilities for the furnishing of water to the general public, distribution centers, and small warehouse facilities capable of serving as decentralized storage and distribution centers, and for the promotion of development or redevelopment and expansion, including costs of administration and operation, of a military base closed or realigned pursuant to recommendation of the Defense Closure and Realignment Commission pursuant to the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687 note) as amended, and of facilities which are related to any of the foregoing, and in furtherance of the public purposes of this Act, all as defined in the rules of the department, irrespective of whether in existence or required to be identified, acquired, or constructed thereafter. As used in this Act, the term "development areas" shall mean any area or areas of a city that the city finds and determines, after a public hearing, should be developed in order to meet the development objectives of the city. In addition, in blighted or economically depressed areas, development areas, federally designated empowerment zones and enterprise communities designated under Section 1391, Internal Revenue Code of 1986, or federally assisted new communities located within a home-rule city or a federally designated economically depressed county of less than 50,000 persons according to the last federal decennial census, a project may include the land, buildings, equipment, facilities, and improvements (one or more) found by the board of directors to be required or suitable for the promotion of commercial development and expansion and in furtherance of the public purposes of this Act, or for use by commercial enterprises, all as defined in the rules of the department, irrespective of whether in existence or required

to be acquired or constructed thereafter. As used in this Act, the term blighted or economically depressed areas shall mean those areas and areas immediately adjacent thereto within a city which by reason of the presence of a substantial number of substandard, slum, deteriorated, or deteriorating structures, or which suffer from a high relative rate of unemployment, or which have been designated and included in a tax incremental district created under Chapter 695, Acts of the 66th Legislature, Regular Session, 1979 (Article 1066d, Vernon's Texas Civil Statutes), or any combination of the foregoing, the city finds and determines, after a hearing, substantially impair or arrest the sound growth of the city, or constitute an economic or social liability and are a menace to the public health, safety, or welfare in their present condition and use. The department shall adopt guidelines that describe the kinds of areas that may be considered to be blighted or economically depressed. The city shall consider these guidelines in making its findings and determinations. Notice of the hearing at which the city considers establishment of a development area or an economically depressed or blighted area shall be posted at the city hall before the hearing.

"Federally assisted new communities" shall mean those federally assisted areas which have received or will receive assistance in the form of loan guarantees under Title X of the National Housing Act and a portion of the federally assisted area has received grants under Section 107(a)(1) of the Housing and Community Development Act of 1974, as amended.

SECTION 2. Section 4A, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended by adding Subsection (c-1) to read as follows:

(c-1) The costs of a publicly owned and operated project that is purchased or constructed under this section include the maintenance and operating costs of the project. The proceeds of taxes imposed under this section may be used to pay the maintenance and operating costs of a project, unless not later than the 60th day after the date notice of this specific use of the tax proceeds is first published, the governing body of the city receives a petition from more than 10 percent of the registered voters of the city requesting that an election be held before the tax proceeds may be used to pay the maintenance and operating costs of a project.

SECTION 3. Section 4B(a)(1), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

(1) "Eligible city" means a city:

(A) that is located in a county with a population of 750,000 or more, according to the most recent federal decennial census and in which the combined rate of all sales and use taxes imposed by the city, the state, and other political subdivisions of the state having territory in the city does not exceed 8.25 [~~7.25~~] percent on the date of any election held under or made applicable to this section;

(B) that has a population of 400,000 or more, according to the most recent federal decennial census, and that is located in more than one county, and in which the combined rate of all sales and use taxes imposed by the city, the state, and other political subdivisions of the state having territory in the city, including taxes under this section, does not exceed 8.25 percent;

(C) that is located in a county with a population of more than 1,100,000 according to the most recent federal decennial census, in which there are more than 29 incorporated municipalities according to the most recent federal decennial census, and in which the combined rate of all sales and use taxes imposed by the city, the state, and other political subdivisions of the state having territory in the city does not exceed 7.75 percent on the date of any election held under or made applicable to this section; or

(D) to which Section 4A of this Act applies.

(E) Paragraph (C) of this subdivision expires September 1, 1999.

SECTION 4. Section 4B(k), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

(k) The legislature finds for all constitutional and statutory purposes that projects of the types added to the definition of that term by Subsection (a) of this section are owned, used, and held for public purposes for and on behalf of the eligible city incorporating the corporation, and <u>except as otherwise provided by this subsection,</u> Section 23(b) of this Act and Section 25.07(a), Tax Code, are not applicable to leasehold or other possessory interests granted by the corporation during the period projects are owned by the corporation on behalf of the eligible city. Projects are exempt from taxation under Section 11.11, Tax Code, for that period. <u>For a corporation governed by this section in which the voters of the eligible city that created the corporation have not authorized the levy of a sales and use tax for the benefit of the corporation under Subsection (d) of this section, an ownership, leasehold, or other possessory interest of a person other than the corporation in real property constituting a project of the corporation described by this subsection is subject to ad valorem taxation under Section 25.07(a), Tax Code, except that an ownership, leasehold, or other possessory interest of a person other than the corporation in real property described by this subsection that is created under an agreement entered into by the corporation before September 1, 1999, is covered by the provisions of this subsection governing ad valorem taxation of the ownership, leasehold, or other possessory interest that were in effect on the date on which the agreement was executed.</u>

SECTION 5. The Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes) is amended by adding Section 4E to read as follows:

<u>Sec. 4E. DEVELOPMENT CORPORATION FOR SPACEPORT FACILITIES. (a) In this section:</u>

<u>(1) "Eligible entity" means any county or combination of municipalities and counties.</u>

<u>(2) "Project" means land, buildings, equipment, facilities, and improvements included in the definition of that term under Section 2 of this Act, including land, buildings, equipment, facilities, and improvements found by the board of directors to:</u>

<u>(A) be required or suitable for use for the promotion or development of a spaceport, related area transportation facilities, automobile parking facilities, and related roads, streets, and water and sewer facilities, and other related improvements that enhance any of those items;</u>

(B) promote or develop new or expanded business enterprises relating to a spaceport;

(C) promote or develop educational programs and job training in connection with a spaceport;

(D) be required or suitable for the promotion of development and expansion of affordable housing, as defined by 42 U.S.C. Section 12745, in connection with a spaceport.

(3) "Spacecraft" includes a satellite.

(4) "Spaceport" includes:

(A) an area intended to be used to launch or land a spacecraft;

(B) a spaceport building or facility located on an area appurtenant to a launching or landing area;

(C) an area appurtenant to a launching or landing area that is intended for use for a spaceport building or facility; and

(D) a right-of-way related to a launching or landing area, building facility, or other area that is appurtenant to a launching or landing area.

(b) An eligible entity may create a corporation under this Act governed by this section. The corporation has the powers granted by this section and by other sections of this Act and is subject to the limitations of a corporation created under other provisions of this Act. To the extent of a conflict between this section and another provision of this Act, this section prevails. The articles of incorporation of a corporation under this section must state that the corporation is governed by this section and may include within its name any words and phrases specified by the eligible entity.

(c) A corporation may:

(1) acquire, convey, mortgage, or otherwise dispose of property; and

(2) exercise the power of eminent domain to acquire property for a spaceport, including the power to:

(A) acquire fee title in land condemned;

(B) relocate or modify a railroad, utility line, pipeline, or other facility that may interfere with a spaceport; or

(C) impose a reasonable restriction on using the surface of the property for mineral development if the corporation does not own the mineral rights.

(d) A corporation may not issue a bond or acquire property unless a site in the territory of the eligible entity that established the corporation has been designated as the site for a spaceport.

(e) Before exercising the power of eminent domain under this section, a corporation must obtain a resolution approving the proposed condemnation from the governing body of a county or municipality in which the property is located. For purposes of this section, territory in the extraterritorial jurisdiction of a municipality is considered to be in the jurisdiction of the municipality. The exercise of the power of eminent domain by the corporation is governed by Chapter 21, Property Code.

(f) A corporation may make an agreement with or accept a donation, grant, or loan from any person. A corporation may enter into an interlocal

contract under Chapter 791, Government Code. A corporation may not contract to operate a spaceport unless the agreement provides that the person contracting with the corporation must assume the corporation's liability for a cause of action arising from environmental damage. A corporation may sue and be sued.

(g) A corporation is governed by a board of seven directors. For a corporation established by a single county, the commissioners court of the county shall appoint the directors. If more than one public entity creates the corporation the board must be appointed by written agreement between the governing bodies of those entities. Each director serves a two-year term that expires June 1 of each odd-numbered year except that the terms of three or four of the initial directors may be for a one-year term so that the terms can be staggered for future two-year terms. A board shall elect a presiding officer from among its members. A board by rule may provide for the election of other officers. The board shall meet at least once every three months and at the call of the presiding officer or a majority of the directors.

(h) A board by rule may develop a plan for higher education courses and degree programs to be offered at or near a spaceport. These planned courses and degree programs must be related to the purposes of this chapter. The Texas Aerospace Commission and the Texas Higher Education Coordinating Board shall cooperate with and advise a board in carrying out this section.

(i) A corporation may:

(1) impose a charge for using a spaceport or a service the corporation provides;

(2) issue a bond as provided by this section;

(3) borrow money;

(4) loan money to fund a spaceport; and

(5) invest money under its control in an investment permitted by Chapter 2256, Government Code.

(j) A corporation's property, income, and operations are exempt from taxes imposed by the state or a political subdivision of the state. In lieu of taxes, a corporation shall make a payment to each political subdivision of the state in an amount equal to the ad valorem taxes that would be paid on the land of the corporation if the land were privately owned. Tangible personal property such as a spacecraft or other property necessary to launch the spacecraft is not taxable under Section 11.01, Tax Code, if it is located in the spaceport. Chapter 151, Tax Code, does not apply to tangible personal property purchased by a person for use in a spaceport.

(k) A corporation may issue bonds. The bonds are not an obligation or a pledge of the faith and credit of the state, a sponsoring entity or other political subdivision or agency of the state. A bond issued under this section must:

(1) be payable solely from the revenue of a spaceport developed by the corporation issuing the bond;

(2) mature not later than 50 years after its date of issuance;

(3) state on its face that the bond is not an obligation of the State of Texas or a political subdivision of the state, other than the corporation that issued the bond; and

(4) be approved by the governing body of each entity that established the corporation.

(l) Section 24 of this Act does not apply to a corporation under this section.

SECTION 6. The Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes) is amended by adding Section 30A to read as follows:

Sec. 30A. (a) For purposes of this section, a "defense base development corporation" means a corporation established under Section 4B of this Act, for the purpose of promoting projects regarding a military base closure or realignment under the Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section 2687) and its subsequent amendments.

(b) Each of the following acts of a defense base development corporation is validated and confirmed as of the date it occurred:

(1) each act or proceeding of the corporation taken before March 1, 1999;

(2) the election or appointment and each act of a director or other official of the corporation who took office before the effective date of this Act;

(3) each act or proceeding relating to a bond or other obligation of the corporation authorized before the effective date of this Act; and

(4) each act or proceeding relating to the entity's incorporation under this Act.

(c) This section does not apply to:

(1) an act, proceeding, bond, or obligation the validity of which is the subject of litigation that is pending on the effective date of this Act;

(2) an election or appointment of a director or official the validity of which is the subject of litigation that is pending on the effective date of this Act;

(3) an act or proceeding that was void or that, under a statute of this state at the time the action or proceeding occurred, was a misdemeanor or felony; or

(4) an act or proceeding that has been held invalid by a final judgment of a court.

SECTION 7. This Act takes effect September 1, 1999.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Representative Oliveira moved to adopt the conference committee report on **HB 3029**.

The motion prevailed without objection.

HB 3029 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE DELISI: Chairman Oliveira, thank you for this legislation, and I need some clarification if you would give this to me. I understand that the language in your bill requires an agreement to be entered into by a

corporation before September 1, 1999, but in my particular town, and I think some other towns across Texas, a final and binding agreement may not be practically finalized by September 1, 1999. I would like to know if it is your intent that a fully executed letter of intent between the two parties or a term sheet with a private entity, prior to the enactment of this legislation, would satisfy your requirement of the word "agreement?"

REPRESENTATIVE OLIVEIRA: Yes. I certainly believe that a letter of intent is sufficient to make an agreement under this statute, and I have also been advised that would be adequate as far as the agencies and economic development corporations are concerned and as far as the Legislative Council is concerned.

DELISI: Thank you, Mr. Chairman.

REMARKS ORDERED PRINTED

Representative Delisi moved to print remarks by Representative Oliveira and Representative Delisi.

The motion prevailed without objection.

(Garcia now present)

NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of the following resolutions, suspending the limitations on the conferees: **HR 1339** for **HB 3457**; **HR 1340** for **HB 3211**; and **HR 1341** for **SB 441**.

HB 3304 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Thompson submitted the following conference committee report on **HB 3304**:

Austin, Texas, May 28, 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 3304** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Sibley	Thompson
Cain	J. Solis
Armbrister	Capelo
	Hinojosa
	Hartnett
On the part of the Senate	On the part of the House

HB 3304, A bill to be entitled An Act relating to the books and records of certain insurers.

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

SECTION 1. Article 1.28, Insurance Code, is amended to read as follows:

Art. 1.28. OUT-OF-STATE BOOKS, RECORDS, ACCOUNTS, AND OFFICES

Sec. 1. (a) On giving written notice of intent to the commissioner of insurance, and if the commissioner of insurance does not disapprove within 30 days after that notice is given, a domestic insurance company, including a life, health, and accident insurance company, fire and marine insurance company, surety and trust company, general casualty company, title insurance company, fraternal benefit society, mutual life insurance company, local mutual aid association, statewide mutual assessment company, mutual insurance company other than life, farm mutual insurance company, county mutual insurance company, Lloyds plan, reciprocal exchange, group hospital service corporation, health maintenance organization, stipulated premium insurance company, nonprofit legal services corporation, or any other entity licensed under the Insurance Code or chartered or organized under the laws of this state that is an affiliated member of an insurance holding company system, as defined by Article 21.49-1, Insurance Code, as added by Chapter 356, Acts of the 62nd Legislature, Regular Session, 1971 (Article 21.49-1, Vernon's Texas Insurance Code), may locate and maintain all or any portion of its books, records, and accounts and its principal offices outside this state at a location within the United States if the company meets the requirements of this section. This article does not apply to or prohibit the location and maintenance of the normal books, records, and accounts including policyholder and claim files [~~of either a branch office or agency office~~] of a domestic insurance company, relating to the business produced by or through an agency of the company whether or not such agency is an affiliate under Article 21.49-1, at the branch office or agency office, if that office is located in the United States.

(b) The domestic insurance company must be:

(1) an affiliate of an insurance holding company system as defined in Article 21.49, Insurance Code, as added by Chapter 356, Acts of the 62nd Legislature, Regular Session, 1971 (Article 21.49-1, Vernon's Texas Insurance Code), that has made the necessary filings as required by that article and that is in compliance with that article; [~~or~~]

(2) a nonprofit legal services corporation whose claims and daily affairs are handled under contract by a foreign insurer licensed to do a similar business in this state; or

(3) a health maintenance organization that is affiliated with other health maintenance organizations or health care providers.

(c) The ultimate controlling person of the insurance holding company system, the immediate controlling person of the domestic insurance company, or an intermediate controlling person of the domestic insurance company must be legally domiciled, licensed, or admitted to transact business in a jurisdiction within the United States.

(d) The books, records, accounts, or offices of the domestic insurance company are under the company's direct supervision, management, and control.

(e) Both the domestic insurance company and the controlling person of the affiliated insurance holding company system must appoint and maintain a person in this state as attorney for service of process in the manner provided by Section 2(b), Article 1.36, of this code. The commissioner is authorized to accept service and notify the insurance company, in the manner provided by Section 3, Article 1.36, of this code, if the insurance company does not appoint or maintain an attorney for acceptance of process.

(f) A separate notice of intent shall not be required if the domestic insurer has an agreement to maintain its books and records outside of the state with an affiliate and such agreement has been approved or deemed approved as required by Article 21.49-1, Insurance Code, and such agreement contains substantially all the information required for such notice under this article.

(g) The commissioner shall adopt rules allowing the maintenance of the books and records of a domestic insurer subject to this article with a nonaffiliated entity other than an agency and to allow a domestic health maintenance organization to comply with this article.

Sec. 2. (a) A credit on or offset to the amount of premium taxes to be paid by the domestic insurance company to the state in a taxable year may not be allowed on:

(1) examination expenses incurred by representatives of the department that are directly attributable to an examination of the books, records, accounts, or principal offices of a domestic insurance company located outside this state;

(2) examination expenses or fees paid to a state other than this state; or

(3) examination expenses paid in a different taxable year.

(b) This article prevails over any conflicting provisions in Articles 1.16, 4.10, 9.59, and 4.11 of this code or any other law of this state.

SECTION 2. This Act takes effect September 1, 1999. This Act clarifies the law as it existed immediately before the effective date of this Act and may not be interpreted to imply that the law as it existed immediately before the effective date of this Act is inconsistent with the law as amended by this Act.

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 Thompson moved to adopt the conference committee report on **HB 3304**.

The motion prevailed without objection.

HR 1344 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1344**, suspending the limitations on the conferees for **HB 1059**.

SB 1230 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Thompson submitted the conference committee report on **SB 1230**.

Representative Thompson moved to adopt the conference committee report on **SB 1230**.

The motion prevailed without objection.

HB 577 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Giddings submitted the following conference committee report on **HB 577**:

Austin, Texas, May 27, 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 577** 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.

Nelson	Giddings
Shapiro	Dunnam
Moncrief	Dutton
Armbrister	Hinojosa
Jackson	S. Turner
On the part of the Senate	On the part of the House

HB 577, A bill to be entitled An Act relating to the period for which a person arrested or held without a warrant in the prevention of family violence may be held after bond is posted.

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

SECTION 1. Article 17.291(b), Code of Criminal Procedure, is amended to read as follows:

(b) Article 17.29[~~, Code of Criminal Procedure,~~] does not apply when a person has been arrested or held without a warrant in the prevention of family violence if there is probable cause to believe the violence will continue if the person is immediately released. The head of the agency arresting or holding such a person may hold the person for a period of not more than four hours after bond has been posted. This detention period may be extended for an additional period not to exceed 48 hours, but only if authorized in a writing directed to the person having custody of the detained person by a magistrate who concludes that:

(1) the violence would continue if the person is released; and

(2) if the additional period exceeds 24 hours, probable cause exists to believe that the person committed the instant offense and that, during the 10-year period preceding the date of the instant offense, the person has been arrested:

(A) on more than one occasion for an offense involving family violence; or

(B) for any other offense, if a deadly weapon, as defined by Section 1.07, Penal Code, was used or exhibited during commission of the offense or during immediate flight after commission of the offense[~~, but in no case may such a period of detention exceed 24 hours~~].

SECTION 2. The change in law made by this Act applies only to a person whose period of detention begins on or after the effective date of this Act. A person whose period of detention begins before the effective date of this Act is covered by the law in effect when the period of detention began, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 1999.

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 Giddings moved to adopt the conference committee report on **HB 577**.

The motion prevailed without objection.

HB 2031 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Kuempel submitted the following conference committee report on **HB 2031**:

Austin, Texas, May 28, 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 2031** 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	Kuempel
Shapleigh	B. Turner
Shapiro	Driver
Zaffirini	Berman
	Najera
On the part of the Senate	On the part of the House

HB 2031, A bill to be entitled An Act relating to the process of notifying drivers of license suspension by mail.

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

SECTION 1. Section 521.291(b), Transportation Code, is amended to read as follows:

(b) The notice may be sent by first class [~~certified~~] mail to the license holder's address as shown on the holder's driver's license.

SECTION 2. Section 521.344(g), Transportation Code, is amended to read as follows:

(g) A revocation, suspension, or prohibition order under Subsection (e) or (f) remains in effect until the department receives notice of successful completion of the educational program. The director shall promptly send notice of a revocation or prohibition order issued under Subsection (e) or (f) by first class [~~certified~~] mail[~~, return receipt requested,~~] to the person at the person's most recent address as shown in the records of the department. The notice must include the date of the revocation or prohibition order, the reason for the revocation or prohibition, and a statement that the person has the right to request [~~demand~~] in writing that a hearing be held on the revocation or prohibition. Notice is considered received on the fifth day after the date the notice is mailed. A revocation or prohibition under Subsection (e) or (f) takes [~~may not take~~] effect on [~~before~~] the 30th [~~28th~~] day after the date the notice is mailed [~~person receives notice by certified mail or the 31st day after the date the director sends the notice by certified mail if the person has not accepted delivery of the notice~~]. The person may request a [~~must demand the~~] hearing not later than the 20th day after the date the notice is mailed [~~person receives notice by certified mail or the 23rd day after the date the director sends the notice by certified mail if the person has not accepted delivery of the notice~~]. If the department receives a request [~~demand~~] under this subsection, the department shall set the hearing for the earliest practical time and the revocation or prohibition does not take effect until resolution of the hearing.

SECTION 3. Section 522.071(c), Transportation Code, is amended to read as follows:

(c) Except as provided by Subsection (b), it is an affirmative defense to prosecution of an offense under this section that the person had not received notice of a denial, disqualification, prohibition order, or out-of-service order concerning the person's driver's license, permit, or privilege to operate a motor vehicle. For purposes of this subsection, notice is presumed if the notice was sent by first class [~~certified~~] mail to the last known address of the person as shown by the records of the department or licensing authority of another state.

SECTION 4. Section 524.013(a), Transportation Code, is amended to read as follows:

(a) If the department suspends a person's driver's license, the department shall send a notice of suspension by first class [~~certified~~] mail to the person's address:

(1) in the records of the department; or [~~and~~]

(2) in the peace officer's report if it is different from the address in the department's records.

SECTION 5. Section 724.033(a), Transportation Code, is amended to read as follows:

(a) On receipt of a report of a peace officer under Section 724.032, if the officer did not serve notice of suspension or denial of a license at the time

of refusal to submit to the taking of a specimen, the department shall mail notice of suspension or denial, by first class [~~certified~~] mail, to the address of the person shown by the records of the department or [~~and~~] to the address given in the peace officer's report, if different.

SECTION 6. Section 601.156(c), Transportation Code, is amended to read as follows:

(c) The department shall summon the person requesting the hearing to appear at the hearing. Notice under this subsection shall be delivered through personal service or mailed by first class [~~certified~~] mail[~~, return receipt requested,~~] to the person's last known address, as shown by the department's records. The notice must include written charges issued by the department.

SECTION 7. Section 106.115(e), Alcoholic Beverage Code, is amended to read as follows:

(e) The Department of Public Safety shall send notice of the suspension or prohibition order issued under Subsection (d) by first class [~~certified~~] mail[~~, return receipt requested,~~] to the defendant. The notice must include the date of the suspension or prohibition order, the reason for the suspension or prohibition, and the period covered by the suspension or prohibition.

SECTION 8. Section 161.254(b), Health and Safety Code, is amended to read as follows:

(b) The Department of Public Safety shall send to the defendant notice of court action under Subsection (a) by first class [~~certified~~] mail[~~, return receipt requested~~]. The notice must include the date of the order and the reason for the order and must specify the period of the suspension or denial.

SECTION 9. Section 521.295, Transportation Code, is repealed.

SECTION 10. (a) This Act takes effect September 1, 1999.

(b) The change in law made by this Act applies only to a notice mailed on or after the effective date of this Act. A notice mailed before the effective date of this Act is covered by the law in effect when the notice was mailed, and the former law is continued in effect for that purpose.

SECTION 11. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Representative Kuempel moved to adopt the conference committee report on **HB 2031**.

The motion prevailed without objection.

SB 947 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Maxey submitted the conference committee report on **SB 947**.

Representative Maxey moved to adopt the conference committee report on **SB 947**.

A record vote was requested.

The motion prevailed by (Record 525): 141 Yeas, 4 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; Coleman; Cook; Corte; 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; 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.; Ritter; Sadler; Salinas; Seaman; Siebert; Smith; Smithee; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Nays — Clark; Madden; Reyna, E.; Shields.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Crownover; Jones, D.

Absent — Solis, J.; Uresti.

STATEMENT OF VOTE

When Record No. 525 was taken, I would have voted yes.

J. Solis

HB 352 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Denny submitted the following conference committee report on **HB 352**:

Austin, Texas, May 28, 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 352** 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	Denny
Lindsay	Alexander
Moncrief	Y. Davis
Madla	Madden
Armbrister	
On the part of the Senate	On the part of the House

HB 352, A bill to be entitled An Act relating to the limit on fines collected by municipalities for traffic violations.

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

SECTION 1. Section 542.402, Transportation Code, is amended to read as follows:

Sec. 542.402. DISPOSITION OF FINES. (a) A municipality or county shall use a fine collected for a violation of a highway law in this title [~~subtitle~~] to:

(1) construct and maintain roads, bridges, and culverts in the municipality or county;

(2) enforce laws regulating the use of highways by motor vehicles; and

(3) defray the expense of county traffic officers.

(b) In each fiscal year, a municipality having a population of less than 5,000 may retain, from fines collected for violations of [~~highway laws in~~] this title [~~subtitle~~] and from special expenses collected under Article 45.54, Code of Criminal Procedure, in cases in which a violation of this title [~~subtitle~~] is alleged, an amount equal to 30 percent of the municipality's revenue for the preceding fiscal year from all sources, other than federal funds and bond proceeds, as shown by the audit performed under Section 103.001, Local Government Code. After a municipality has retained that amount, the municipality shall send to the comptroller any portion of a fine or a special expense collected that exceeds $1.

(c) The comptroller shall enforce Subsection (b).

(d) In a fiscal year in which a municipality retains from fines and special expenses collected for violations of [~~highway laws in~~] this title [~~subtitle~~] an amount equal to at least 20 percent of the municipality's revenue for the preceding fiscal year from all sources other than federal funds and bond proceeds, not later than the 120th day after the last day of the municipality's fiscal year, the municipality shall send to the comptroller:

(1) a copy of the municipality's financial statement for that fiscal year filed under Chapter 103, Local Government Code; and

(2) a report that shows the total amount collected for that fiscal year from fines and special expenses under Subsection (b).

(e) If an audit is conducted by the comptroller under Subsection (c) and it is determined that the municipality is retaining more than 20 percent of the amounts under Subsection (b) and has not complied with Subsection (d), the municipality shall pay the costs incurred by the comptroller in conducting the audit.

SECTION 2. This Act takes effect September 1, 1999, and applies only to fines and special expenses collected in a fiscal year that begins on or after that date. Fines and special expenses collected in a fiscal year that begins before the effective date of this Act are governed by the law in effect immediately before the effective date of this Act and that law is continued in effect for that purpose.

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 Denny moved to adopt the conference committee report on **HB 352**.

The motion prevailed without objection.

HB 3016 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Smithee submitted the following conference committee report on **HB 3016**:

Austin, Texas, May 28, 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 3016** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Sibley	Smithee
Armbrister	Burnam
Nelson	Eiland
On the part of the Senate	On the part of the House

HB 3016, A bill to be entitled An Act relating to health care utilization review agents.

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

SECTION 1. Sections 5(a) and (c), Article 21.58A, Insurance Code, are amended to read as follows:

(a) A utilization review agent shall notify the enrollee or[~~,~~] a person acting on behalf of the enrollee and[~~, or~~] the enrollee's provider of record of a determination made in a utilization review.

(c) In the event of an adverse determination, the notification by the utilization review agent must include:

(1) the principal reasons for the adverse determination;

(2) the clinical basis for the adverse determination;

(3) a description or the source of the screening criteria that were utilized as guidelines in making the determination; and

(4) a description of the procedure for the complaint and appeal process, including:

(A) notification to the enrollee of the enrollee's right to appeal an adverse determination to an independent review organization;

(B) notification to the enrollee of the procedures for appealing an adverse determination to an independent review organization; and

(C) notification to an enrollee who has a life-threatening condition of the enrollee's right to an immediate review by an independent review organization and the procedures to obtain that review.

SECTION 2. Section 6(a), Article 21.58A, Insurance Code, is amended to read as follows:

(a) A utilization review agent shall maintain and make available a written description of appeal procedures involving an adverse determination. For the purposes of this section, a complaint filed concerning dissatisfaction or disagreement with an adverse determination constitutes an appeal of that adverse determination.

SECTION 3. Section 6(b), Article 21.58A, Insurance Code, as amended by Chapters 163 and 1025, Acts of the 75th Legislature, Regular Session, 1997, is amended and reenacted to read as follows:

(b) The procedures for appeals must [~~shall~~] be reasonable and must [~~shall~~] include the following:

(1) a provision that an enrollee, a person acting on behalf of the enrollee, or the enrollee's physician or health care provider may appeal the adverse determination orally or in writing;

(2) a provision that, within five working days from receipt of the appeal, the utilization review agent shall send to the appealing party a letter acknowledging the date of the utilization review agent's receipt of the appeal [~~and include a reasonable list of documents needed to be submitted by the appealing party to the utilization review agent for the appeal~~]. The [~~Such~~] letter must also include the provisions listed in this subsection and a list of the documents that the appealing party must submit for review by the utilization review agent. When the utilization review agent receives an oral appeal of adverse determination, the utilization review agent shall send a one-page appeal form to the appealing party;

(3) a provision that appeal decisions shall be made by a physician, provided that, if the appeal is denied and within 10 working days the health care provider sets forth in writing good cause for having a particular type of a specialty provider review the case, the denial shall be reviewed by a health care provider in the same or similar specialty as typically manages the medical or[~~,~~] dental[~~, or specialty~~] condition, procedure, or treatment under discussion for review of the adverse determination, and that [~~such~~] specialty review shall be completed within 15 working days of receipt of the request;

(4) in addition to the written appeal, a method for an expedited appeal procedure for emergency care denials [~~, denials of care for life-threatening conditions,~~] and denials of continued stays for hospitalized patients. That [~~Such~~] procedure must [~~shall~~] include a review by a health care provider who has not previously reviewed the case and who is of the same or a similar specialty as typically manages the medical condition, procedure, or treatment under review. The time frame in which the [~~such~~] appeal must be completed shall be based on the medical or dental immediacy of the condition, procedure, or treatment, but may not [~~in no event~~] exceed one working day from the date all information necessary to complete the appeal is received;

(5) a provision that after the utilization review agent has sought review of the appeal of the adverse determination, the utilization review agent shall issue a response letter to the patient or [~~,~~] a person acting on behalf of the patient, and [~~or~~] the patient's physician or health care provider, explaining

the resolution of the appeal[~~. Such letter shall include a statement of the specific medical, dental, or contractual reasons for the resolution, the clinical basis for such decision, and the specialization of any physician or other provider consulted~~]; and

(6) [~~(5)~~] written notification to the appealing party of the determination of the appeal, as soon as practical, but in no case later than the 30th calendar day after the date the utilization agent receives the appeal. If the appeal is denied, the written notification shall include a clear and concise statement of:

(A) the clinical basis for the appeal's denial;

(B) the specialty of the physician or other health care provider making the denial; and

(C) notice of the appealing party's right to seek review of the denial by an independent review organization under Section 6A of this article and the procedures for obtaining that review

[~~(6) written notification to the appealing party of the determination of the appeal, as soon as practical, but in no case later than 30 days after the date the utilization review agent receives the appeal~~].

SECTION 4. Section 6(c), Article 21.58A, Insurance Code, is amended to read as follows:

(c) Notwithstanding this article or any other law, in a circumstance involving an enrollee's life-threatening condition, the enrollee is entitled to an immediate appeal to an independent review organization as provided by Section 6A of this article and is not required to comply with procedures for an internal review of the utilization review agent's adverse determination. [~~For purposes of this section, "life-threatening condition" means a disease or other medical condition with respect to which death is probable unless the course of the disease or condition is interrupted.~~]

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.

Representative Smithee moved to adopt the conference committee report on **HB 3016**.

The motion prevailed without objection.

HB 3582 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Keffer submitted the following conference committee report on **HB 3582**:

Austin, Texas, May 28, 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 3582** 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	Alvarado
Lucio	Craddick
Shapleigh	Nixon
Armbrister	Keffer
Haywood	
On the part of the Senate	On the part of the House

HB 3582, A bill to be entitled An Act relating to receivers, payors, and lessees under certain mineral leases.

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

SECTION 1. Subchapter F, Chapter 64, Civil Practice and Remedies Code, is amended by adding Section 64.093 to read as follows:

Sec. 64.093. RECEIVER FOR ROYALTY INTERESTS OWNED BY NONRESIDENT OR ABSENTEE. (a) A district court may appoint a receiver for the royalty interest owned by a nonresident or absent defendant in an action that:

(1) is brought by a person claiming or owning an undivided mineral interest in land in this state or an undivided leasehold interest under a mineral lease of land in the state; and

(2) has one or more defendants who have, claim, or own an undivided royalty interest in that property.

(b) The defendant for whom the receiver is sought must:

(1) be a person whose residence or identity is unknown or a nonresident; and

(2) not have paid taxes on the interest or rendered it for taxes during the five-year period immediately preceding the filing of the action.

(c) The plaintiff in the action must allege by verified petition and prove that the plaintiff:

(1) has made a diligent but unsuccessful effort to locate the defendant; and

(2) will suffer substantial damage or injury unless the receiver is appointed.

(d) In an action under Subsection (a):

(1) the plaintiff, in the petition, must name the last known owner or the last record owner of the interest as defendant;

(2) the plaintiff must serve notice on the defendant by publication as provided by the Texas Rules of Civil Procedure;

(3) the court may appoint as receiver the county judge, the county clerk, or any other resident of the county in which the land is located;

(4) notwithstanding the Texas Rules of Civil Procedure, the applicant is not required to post bond; and

(5) the receiver is not required to post bond.

(e) A receivership created under this section continues as long as the defendant or the defendant's heirs, assigns, or personal representatives fail to appear in court in person or by agent or attorney to claim the defendant's interest.

(f) As ordered by the court, the receiver shall immediately:

(1) ratify a mineral lease executed by a person owning an undivided mineral interest in the property;

(2) ratify a pooling agreement executed by a person owning an undivided mineral interest in the property or an undivided leasehold interest in the property; or

(3) enter into a unitization agreement authorized by the Railroad Commission of Texas.

(g) A lease ratified by a receiver under this section may authorize the lessee to pool and unitize land subject to the lease with adjacent land into a unit not to exceed 160 acres for an oil well or 640 acres for a gas well plus 10 percent tolerance or into a unit that substantially conforms to a larger unit prescribed or permitted by governmental rule. A pooling agreement ratified by a receiver under this section may allow a pooled unit not to exceed 160 acres for an oil well or 640 acres for a gas well plus 10 percent tolerance or into a unit that substantially conforms to a larger unit prescribed or permitted by governmental rule.

(h) The monetary consideration, if any, due for the execution of a ratification, pooling agreement, or unitization agreement by the receiver must be paid to the clerk of the court in which the case is pending before the receiver executes the instrument. It is, however, recognized that, because ratifications, pooling agreements, and unitization agreements are typically entered into in consideration of the future benefits accruing to the grantor thereof, an initial monetary consideration is not typically paid for the execution of such instruments. The court shall apply the money to the costs accruing in the case and retain any balance for the owner of the royalty interest. Payments made at a later time under the lease, pooled unit, or unitization agreement shall be paid into the registry of the court and impounded for the owner of the royalty interest.

(i) This section is cumulative of other laws relating to removal of a cloud from title or appointment of a receiver.

(j) In this section:

(1) "Mineral lease" includes any lease of oil, gas, or other minerals that contains provisions necessary or incident to the orderly exploration, development, and recovery of oil, gas, or other minerals.

(2) "Leasehold interest" includes ownership created under a mineral lease or carved out of a leasehold estate granted under a mineral lease, including production payments, overriding royalty interests, and working interests.

(3) "Pooling agreement" includes any agreement that pools or unitizes land with adjacent land for production of oil, gas, or other minerals.

(4) "Royalty interest" includes any interest in the lands entitled to share in the production of oil, gas, or other minerals that is not required to execute a mineral lease or any other instrument in order to vest in the mineral interest owner or mineral leasehold interest owner the right and power, as to that interest, to develop oil, gas, or other minerals produced solely from those lands.

(k) To the extent that Subsection (d)(2) conflicts with the Texas Rules

of Civil Procedure, Subsection (d)(2) controls. Notwithstanding Section 22.004, Government Code, the supreme court may not amend or adopt rules in conflict with Subsection (d)(2).

SECTION 2. Section 52.026, Natural Resources Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) A lessee of an area under this subchapter may transfer the [~~his~~] lease at any time. The liability of the transferor to properly discharge its obligations under the lease, including properly plugging abandoned wells, removing platforms or pipelines, or remediation of contamination at drill sites shall pass to the transferee upon prior written consent of the commissioner. The commissioner may not withhold the consent unreasonably. The commissioner may require the transferee to demonstrate that it has the financial responsibility to properly discharge its obligations under the lease and may require the transferee to post a bond or provide other security to secure those obligations if the transferee is unable to demonstrate such financial responsibility to the satisfaction of the commissioner.

(e) This section does not relieve a person from the duty to comply with a rule adopted or order issued by the Railroad Commission of Texas under another provision of this code.

SECTION 3. Section 53.001, Natural Resources Code, is amended by adding Subdivision (4) to read as follows:

(4) "Surface mining" means the mining of minerals by removing the overburden lying above the natural deposit of minerals and mining directly from the natural deposits that are exposed. The term does not include in situ mining activities.

SECTION 4. Sections 53.065(b) and (c), Natural Resources Code, are amended to read as follows:

(b) Except as provided by Subsection (c), under [~~Under~~] a lease executed under this subchapter on or after September 1, 1987, the lessee shall pay:

(1) to the state 80 percent of all bonuses agreed to be paid for the lease and 80 percent of all rentals and royalties that are payable under the lease; and

(2) [~~. The lessee shall pay~~] to the owner of the surface 20 percent of all bonuses agreed to be paid for the lease and 20 percent of all rentals and royalties payable under the lease.

(c) Under a lease executed under this subchapter on or after September 1, 1999, for the exploration and production by surface mining of coal, lignite, potash, sulphur, thorium, or uranium, the lessee shall pay:

(1) to the state 60 percent of all bonuses agreed to be paid for the lease and 60 percent of all rentals and royalties that are payable under the lease; and

(2) to the owner of the surface 40 percent of all bonuses agreed to be paid for the lease and 40 percent of all rentals and royalties payable under the lease.

(d) If production is obtained, the state shall receive not less than one-sixteenth of the value of the minerals produced.

SECTION 5. Subchapter J, Chapter 91, Natural Resources Code, is amended by adding Section 91.408 to read as follows:

Sec. 91.408. INFORMATION FOR PAYEES OF PROCEEDS OF PRODUCTION FROM CERTAIN GAS WELLS. (a) A payor of proceeds from the sale of gas produced from a tight formation as defined by Section 29(c)(2)(B), Internal Revenue Code of 1986, annually shall furnish the payee a statement providing the information necessary to compute the federal income tax credit provided by that section for the gas for which payment was made in the preceding year, including:

(1) information as described in Section 91.502(1) of this code; and

(2) the volume of the gas, measured in:

(A) thousands of cubic feet and heating value; or

(B) millions of British thermal units for each thousand cubic feet.

(b) A payor shall furnish a statement required by Subsection (a) not later than March 15 each year.

SECTION 6. (a) Section 5 of this Act takes effect September 1, 1999.

(b) The changes in law made by this Act to Sections 53.001 and 53.065, Natural Resources Code, do not affect a lease for the exploration and production by surface mining of coal, lignite, potash, sulphur, thorium, or uranium that is not within all or part of a survey previously sold with all minerals reserved to the state.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Representative Keffer moved to adopt the conference committee report on **HB 3582**.

The motion prevailed without objection.

(Goolsby in the chair)

SB 1703 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hodge submitted the conference committee report on **SB 1703**.

Representative Hodge moved to adopt the conference committee report on **SB 1703**.

The motion prevailed without objection.

HB 1861 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Gutierrez submitted the following conference committee report on **HB 1861**:

Austin, Texas, May 29, 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 1861** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Shapleigh	Gutierrez
Lucio	Oliveira
Madla	Alexander
Shapiro	Noriega
Hill	
On the part of the Senate	On the part of the House

HB 1861, A bill to be entitled An Act relating to increasing private investments in transportation infrastructure in the border region.

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

SECTION 1. Section 201.109(b), Transportation Code, is amended to read as follows:

(b) In carrying out this section, the commission shall provide for:

(1) maximizing the generation of revenue from existing assets of the department, including real estate;

(2) increasing the role of the private sector and public-private projects in the leasing of real estate and other assets in the development of highway projects;

(3) setting and attempting to meet annual revenue enhancement goals;

(4) reporting on the progress in meeting revenue enhancement goals in the department's annual report;

(5) contracting for an independent audit of the department's management and business operations in 2001 and each 12th year after 2001; [~~and~~]

(6) developing a cost-benefit analysis between the use of local materials previously incorporated into roadways versus use of materials blended or transported from other sources; and

(7) increasing private investment in the transportation infrastructure, including the acquisition of causeways, bridges, tunnels, turnpikes, or other transportation facilities, in the border region, including the counties of Atascosa, Bandera, Bexar, Brewster, Brooks, Cameron, Crockett, Culberson, Dimmit, Duval, Edwards, El Paso, Frio, Hidalgo, Hudspeth, Jeff Davis, Jim Hogg, Jim Wells, Kenedy, Kerr, Kimble, Kinney, Kleberg, La Salle, Live Oak, Maverick, McMullen, Medina, Nueces, Pecos, Presidio, Real, Reeves, San Patricio, Starr, Sutton, Terrell, Uvalde, Val Verde, Webb, Willacy, Zapata, and Zavala.

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 Gutierrez moved to adopt the conference committee report on **HB 1861**.

The motion prevailed without objection.

HR 1348 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the chair announced the introduction of **HR 1348**, suspending the limitations on the conferees for **SB 178**.

HB 2748 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Smithee submitted the following conference committee report on **HB 2748**:

Austin, Texas, May 29, 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 2748** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Sibley	Smithee
Madla	Eiland
Jackson	Olivo
Cain	
On the part of the Senate	On the part of the House

HB 2748, A bill to be entitled An Act relating to coverage for certain care for children provided through certain health benefit plans.

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

SECTION 1. The Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code) is amended by adding Sections 9E and 9F to read as follows:

Sec. 9E. WELL-CHILD CARE FROM BIRTH. (a) In this Act, "well-child care from birth" has the meaning used under Section 1302, Public Health Service Act (42 U.S.C. Section 300e-1), and its subsequent amendments, and includes newborn screening required by the Texas Department of Health.

(b) Each health maintenance organization shall ensure that each health care plan provided by the organization includes well-child care from birth that complies with the federal requirements adopted under Chapter XI, Public Health Service Act (42 U.S.C. Section 300e et seq.), and its subsequent amendments, and the rules adopted by the Texas Department of Health to implement those requirements.

Sec. 9F. IMMUNIZATIONS OF CHILDREN. In addition to an immunization required under Section 3(a), Article 21.53F, Insurance Code,

each health maintenance organization shall include in each health care plan provided by the organization coverage for immunization against rotovirus and any other immunization required for a child by statute or rule.

SECTION 2. Except as provided by Section 3 of this Act, this Act takes effect immediately.

SECTION 3. Section 9F, Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code), as added by this Act, takes effect September 1, 1999, and applies only to an evidence of coverage that is delivered, issued for delivery, or renewed on or after January 1, 2000. An evidence of coverage that is delivered, issued for delivery, or renewed before January 1, 2000, is governed by the law as it existed on the date the evidence of coverage was delivered, issued for delivery, or renewed, and that 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, and that this Act take effect and be in force according to its terms, and it is so enacted.

(Speaker in the chair)

Representative Smithee moved to adopt the conference committee report on **HB 2748**.

The motion prevailed. (Berman and Heflin recorded voting no)

SB 709 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Keffer submitted the conference committee report on **SB 709**.

Representative Keffer moved to adopt the conference committee report on **SB 709**.

A record vote was requested.

The motion prevailed by (Record 526): 146 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; Corte; 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. 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(C).

Absent, Excused — Crownover; Jones, D.

Absent — Solis, J.

STATEMENT OF VOTE

When Record No. 526 was taken, I would have voted yes.

J. Solis

SB 982 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Van de Putte submitted the conference committee report on **SB 982**.

(J. Solis now present)

Representative Van de Putte moved to adopt the conference committee report on **SB 982**.

The motion prevailed without objection.

HB 542 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Brimer submitted the following conference committee report on **HB 542**:

Austin, Texas, May 28, 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 542** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Fraser	Brimer
Lucio	Woolley
Carona	Dukes
Madla	Corte
Jackson	
On the part of the Senate	On the part of the House

HB 542, A bill to be entitled An Act relating to the board of directors of the Texas Workers' Compensation Insurance Fund.

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

SECTION 1. Section 3, Article 5.76-3, Insurance Code, is amended to read as follows:

Sec. 3. BOARD OF DIRECTORS. (a) The fund is governed by a board of directors composed of nine members, all of whom shall be citizens of this state. The members shall be appointed by the governor with the advice and consent of the senate, and vacancies shall be filled in the same manner.

(b) The members of the board of directors serve staggered six-year terms, with the terms of three members expiring February 1 of each odd-numbered year. A member of the board whose term has expired shall continue to serve until the member's replacement is appointed by the governor.

[~~(b) Except as provided by Subsection (c) of this section, to be eligible for appointment as a member of the board a person must be a policyholder of the fund or an officer or employee of a policyholder and must maintain that status during the period of service on the board. Failure to maintain that status disqualifies the board member and creates a vacancy on the board.~~]

(c) [~~The initial appointees to the board must be employers in this state.~~

[~~(d)~~] In making appointments to the board, the governor shall attempt to reflect the social, geographic, and economic diversity of the state. To ensure balanced representation, the governor may consider the geographic location of a prospective appointee's domicile and the prospective appointee's experience in business and insurance matters and shall consider those factors in appointing members to fill vacancies on the board. Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

(d) [~~(e)~~] A person may not serve as a member of the board if the person, an individual related to the person within the second degree by consanguinity or affinity, or an individual residing in the same household with the person:

(1) is required to be registered or licensed under this code;

(2) is employed by or acts as a consultant to a person required to be registered or licensed under this code;

(3) owns, controls, has a financial interest in, or participates in the management of an organization required to be registered or licensed under this code;

(4) receives a substantial tangible benefit from the fund or the Texas Department of Insurance; or

(5) is an officer, employee, or consultant of an association in the field of insurance.

(e) [~~(f)~~] 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 [~~Subsection (b) of~~] this section;

(2) does not maintain during service on the board the qualifications required by [~~Subsection (b) of~~] this section;

(3) cannot because of illness or disability discharge the member's duties for a substantial part of the term for which the member is appointed; or

(4) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year.

(f) [~~(g)~~] 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.

(g) [~~(h)~~] If the president has knowledge that a potential ground for removal exists, the president 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 president shall notify the next highest officer of the board, who shall notify the governor and the attorney general that a potential ground for removal exists.

(h) [~~(i)~~] Subsection (d) [~~(e)~~] of this section does not prohibit a person who is only a consumer of insurance or insurance products from serving as a member of the board.

(i) [~~(j)~~] A person who is ineligible to serve on the board under Subsection (d) [~~(e)~~] of this section may not serve as a member of the board for one year after the date on which the condition that makes the person ineligible ends.

(j) [~~(k)~~] Each member shall receive actual and necessary travel expenses and expenses incurred in the performance of the member's duties as a member.

(k) [~~(l)~~] The governor shall designate a member of the board as the chairman of the board to serve in that capacity at the pleasure of the governor. The members of the board shall elect annually from their number a vice-chairman and a secretary.

(l) [~~(m)~~] The board shall hold meetings at least once each calendar quarter and at other times at the call of the chairman and at times established by board rule. Special meetings may be called by any two members of the board on two days notice.

(m) [~~(n)~~] A majority of the board members constitutes a quorum.

(n) [~~(o)~~] The board shall maintain the principal office of the fund in Austin, Texas.

(o) [~~(p)~~] For cost control purposes and as is determined to be cost-effective, as many functions as possible shall be performed by the fund.

(p) [~~(q)~~] A person may not serve as a member of the board or act as the general counsel to the board or the fund 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 any person or entity other than the fund.

(q) [~~(r)~~] The board shall develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the president and the staff of the fund.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Representative Brimer moved to adopt the conference committee report on **HB 542**.

A record vote was requested.

The motion prevailed by (Record 527): 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; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; 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; Hilbert; Hilderbran; Hill; Hinojosa; Hodge; Homer; Hope; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; 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.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Crownover; Jones, D.

Absent — Deshotel; Heflin; Hochberg; Howard; Krusee.

HB 746 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Gallego submitted the following conference committee report on **HB 746**:

Austin, Texas, May 29, 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 746** 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.

West	Gallego
Ogden	Farabee
Bernsen	Wohlgemuth
Harris	
Cain	
On the part of the Senate	On the part of the House

HB 746, A bill to be entitled An Act relating to a report on certain higher education employees serving as expert witnesses in suits in which the state is a party.

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

SECTION 1. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.0815 to read as follows:

Sec. 61.0815. REPORT ON HIGHER EDUCATION EMPLOYEES SERVING AS EXPERT WITNESSES IN CERTAIN SUITS. (a) In this section, "member of the faculty or professional staff of an institution of higher education" means a person who is employed full-time by an institution of higher education as a member of the faculty or staff and whose duties include teaching, research, administration, or the performance of professional services, including professional library services. The term does not include a person employed in a position controlled by the institution's classified personnel system or a person employed in a similar position if the institution does not have a classified personnel system.

(b) Not later than November 1 of each year, the board shall submit to the governor and to the presiding officer of each house of the legislature a written report regarding compensated service by members of the faculty or professional staff of institutions of higher education as consulting or testifying expert witnesses in suits in which the state is a party during the preceding state fiscal year. The information in the report shall be reported without identifying specific individuals. The report must specify:

(1) the amounts of time spent by the faculty or professional staff members in connection with that service; and

(2) the names, cause numbers, and outcomes of the cases in which that service was rendered, including the amounts of:

(A) any judgments entered against the state;

(B) any prejudgment or postjudgment interest awarded against the state; and

(C) any attorney's fees of another party ordered to be paid by the state.

(c) The attorney general and the president of each institution of higher education shall collect all necessary data for inclusion in the report required by this section.

SECTION 2. (a) Not later than the 90th day after the effective date of this Act, the Texas Higher Education Coordinating Board shall adopt rules to implement Section 61.0815, Education Code, as added by this Act.

(b) The Texas Higher Education Coordinating Board shall submit the first report required by Section 61.0815, Education Code, as added by this Act, not later than November 1, 2000.

SECTION 3. This Act takes effect September 1, 1999.

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 Gallego moved to adopt the conference committee report on **HB 746**.

The motion prevailed without objection.

HB 1123 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Thompson submitted the following conference committee report on **HB 1123**:

Austin, Texas, May 28, 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 1123** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Cain	Thompson
Wentworth	Hinojosa
Ellis	
Harris	
Duncan	Deshotel
On the part of the Senate	On the part of the House

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

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

SECTION 1. Sections 25.0005(a) and (e), Government Code, are amended to read as follows:

(a) A statutory county court judge, other than a statutory county court judge who engages in the private practice of law or a judge in whose court fees and costs under Section 51.702 are not collected, shall be paid a total annual salary set by the commissioners court at an amount that is at least equal to the amount that is $1,000 [~~$4,000~~] less than the total annual salary received by a district judge in the county on August 31, 1999. A district judge's or statutory county court judge's total annual salary includes contributions and supplements, paid by the state or a county, other than contributions received as compensation under Section 74.051.

(e) A county is not required to meet the salary requirements of Subsection (a) for a particular court if:

(1) not later than September 1 of the year in which the county initially begins collecting fees and costs under Section 51.702, the county increases the salary of each statutory county court judge in the county to an amount that is at least $28,000[~~:~~

[~~(A) $20,000~~] more than the salary the judge was entitled to on May 1 of the [~~that~~] year[~~, if~~] the county initially begins collecting fees and costs under Section 51.702 [~~before January 1, 1998, and is also at least $24,000 more than the salary the judge was entitled to on May 1, 1997; and~~

[~~(B) $24,000 more than the salary the judge was entitled to on May 1 of that year if the county initially begins collecting fees and costs under Section 51.702 on or after January 1, 1998~~];

(2) the county pays at least the salary required by Subdivision (1);

(3) the county collects the fees and costs as provided by Section 51.702;

(4) the court has at least the jurisdiction provided by Section 25.0003; and

(5) except as provided by Subsection (f), the county uses at least 50 percent of the amount the county receives each state fiscal year under Section 25.0016 for salaries for the statutory county court judges.

SECTION 2. Subchapter B, Chapter 25, Government Code, is amended by adding Sections 25.00211 and 25.00212 to read as follows:

Sec. 25.00211. STATE CONTRIBUTION. (a) Beginning on the first day of the state fiscal year, the state shall annually compensate each county that collects the additional fees under Section 51.704 in an amount equal to $40,000 for each statutory probate court judge in the county.

(b) The amount shall be paid to the county's salary fund in equal monthly installments from funds appropriated from the judicial fund.

Sec. 25.00212. EXCESS CONTRIBUTIONS. (a) At the end of each state fiscal year the comptroller shall determine the amounts deposited in the judicial fund under Section 51.703 and the amounts paid to the counties under Section 25.00211. If the total amount paid under Section 51.704 by all counties exceeds the total amount paid to counties under Section 25.00211, the state shall remit the excess to the counties proportionately based on the percentage of the total paid by each county.

(b) The amounts remitted under Subsection (a) shall be paid to the county's general fund to be used only for court-related purposes for the support of the judiciary as provided by Section 21.006.

SECTION 3. Section 25.0015, Government Code, is amended to read as follows:

Sec. 25.0015. STATE CONTRIBUTION. (a) Beginning on the first day of the state fiscal year, the state shall annually compensate each county that collects the additional fees and costs under Section 51.702 in an amount equal to $35,000 [~~$30,000~~] for each statutory county court judge in the county who:

(1) does not engage in the private practice of law;

(2) presides over a court with at least the jurisdiction provided by Section 25.0003; and

(3) except as provided by Section 25.0005(d), is not excluded from the application of Section 25.0003 or Section 25.0005.

(b) The amount shall be paid to the county's salary fund in equal monthly installments. Of each $35,000 paid a county, $30,000 shall be paid from funds appropriated from the judicial fund, and $5,000 shall be paid from funds appropriated from the general revenue fund.

SECTION 4. Section 26.006, Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A county judge is entitled to an annual salary supplement from the state of $10,000 [~~$5,000~~] if at least 40 percent of the functions that the judge performs are judicial functions.

(c) The commissioners court in a county with a county judge who is

entitled to receive a salary supplement under this section may not reduce the county funds provided for the salary or office of the county judge as a result of the salary supplement required by this section.

SECTION 5. Subchapter A, Chapter 26, Government Code, is amended by adding Sections 26.007 and 26.008 to read as follows:

Sec. 26.007. STATE CONTRIBUTION. (a) Beginning on the first day of the state fiscal year, the state shall annually compensate each county that collects the additional fees and costs under Section 51.703 in an amount equal to $5,000 if the county judge is entitled to an annual salary supplement from the state under Section 26.006.

(b) The amount shall be paid to the county's salary fund in equal monthly installments from funds appropriated from the judicial fund.

Sec. 26.008. EXCESS CONTRIBUTIONS. (a) At the end of each state fiscal year the comptroller shall determine the amounts deposited in the judicial fund under Section 51.703 and the amounts paid to the counties under Section 26.007. If the total amount paid under Section 51.703 by all counties that collect fees and costs under that section exceeds the total amount paid to the counties under Section 26.007, the state shall remit the excess to the counties that collect fees and costs under Section 51.703 proportionately based on the percentage of the total paid by each county.

(b) The amounts remitted under Subsection (a) shall be paid to the county's general fund to be used only for court-related purposes for the support of the judiciary as provided by Section 21.006.

SECTION 6. The heading to Section 51.702, Government Code, is amended to read as follows:

Sec. 51.702. ADDITIONAL FEES AND COSTS IN CERTAIN STATUTORY COUNTY COURTS.

SECTION 7. Subchapter H, Chapter 51, Government Code, is amended by adding Section 51.703 to read as follows:

Sec. 51.703. ADDITIONAL FEES AND COSTS IN CERTAIN COUNTY COURTS. (a) In addition to all other fees authorized or required by other law, the clerk of a county court with a judge who is entitled to an annual salary supplement from the state under Section 26.006 shall collect a $40 filing fee in each civil case filed in the court to be used for court-related purposes for the support of the judiciary.

(b) In addition to other court costs, a person shall pay $15 as a court cost on conviction of any criminal offense in a county court, including cases in which probation or deferred adjudication is granted. A conviction that arises under Chapter 521, Transportation Code, or a conviction under Subtitle C, Title 7, Transportation Code, is included, except that a conviction arising under any law that regulates pedestrians or the parking of motor vehicles is not included.

(c) Court costs and fees due under this section shall be collected in the same manner as other fees, fines, or costs are collected in the case.

(d) The clerk shall send the fees and costs collected under this section to the comptroller at least as frequently as monthly. The comptroller shall deposit the fees in the judicial fund.

(e) Section 51.320 applies to a fee or cost collected under this section.

SECTION 8. Subchapter H, Chapter 51, Government Code, is amended by adding Section 51.704 to read as follows:

Sec. 51.704. ADDITIONAL FEES IN CERTAIN STATUTORY PROBATE COURTS. (a) Except as provided by Subsection (f), in addition to all other fees authorized or required by other law, the clerk of a statutory probate court shall collect a $40 filing fee in each probate, guardianship, mental health, or civil case filed in the court to be used for court-related purposes for the support of the judiciary.

(b) Court fees due under this section shall be collected in the same manner as other fees, fines, or costs are collected in the case.

(c) The clerk shall send the fees collected under this section to the comptroller at least as frequently as monthly. The comptroller shall deposit the fees in the judicial fund.

(d) Section 51.320 applies to a fee collected under this section.

(e) This section applies only to fees for a 12-month period beginning July 1 in a county in which the commissioners court:

(1) adopts a resolution authorizing the fees under this section; and

(2) files the resolution with the comptroller not later than June 1 immediately preceding the first 12-month period during which the fees are to be collected.

(f) A resolution under Subsection (e) continues from year to year allowing the county to collect fees under the terms of this section until the resolution is rescinded.

(g) A commissioners court that desires to rescind a resolution adopted under Subsection (e) must submit to the comptroller not later than June 1 preceding the beginning of the first day of the state fiscal year a resolution stating the commissioners court's desire to rescind the resolution.

(h) A county that is not eligible to participate under Subsection (e) on July 1 of a year but is eligible to participate later in the year may submit a resolution meeting the requirements of Subsection (e) to the comptroller. The comptroller shall determine the date the county may begin to collect fees under this section. A county that begins to collect fees under this section after July 1 is not eligible for a payment by the comptroller under Section 25.00211 until the 60th day after the date the comptroller determines the county may begin to collect fees under this section.

(i) A clerk may not collect a fee under this section and under Section 51.701 or 51.702.

SECTION 9. Section 51.703, Government Code, as added by this Act, applies only to filing fees for civil cases filed and to costs on convictions occurring on or after the effective date of this Act.

SECTION 10. The change in law made by Section 51.704, Government Code, as added by this Act, applies only to filing fees for a case filed on or after the effective date of this Act.

SECTION 11. This Act takes effect October 1, 1999, and applies only to a salary payment made on or after that date. A salary payment made before October 1, 1999, is governed by the law in effect on the date the salary payment was made, and that law is continued in effect for that purpose.

SECTION 12. The importance of this legislation and the crowded

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

Representative Thompson moved to adopt the conference committee report on **HB 1123**.

The motion prevailed without objection.

HB 1376 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Bosse submitted the following conference committee report on **HB 1376**:

Austin, Texas, May 27, 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 1376** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Carona	Bosse
Madla	Alexander
Fraser	Uher
Jackson	Hilbert
Whitmire	Noriega
On the part of the Senate	On the part of the House

HB 1376, A bill to be entitled An Act relating to the notice provided to an owner of a vehicle towed to a vehicle storage facility.

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

SECTION 1. Section 13, Vehicle Storage Facility Act (Article 6687-9a, Revised Statutes), is amended to read as follows:

Sec. 13. NOTIFICATION OF OWNER. (a) The operator of a vehicle storage facility who receives a vehicle that is registered in this state and has been towed to the facility for storage shall, not later than the fifth day but not before 24 hours after the date the operator receives the vehicle, send a written notice to the registered owner and the primary lienholder of the vehicle. [~~The operator of the storage facility may charge the owner of the vehicle a reasonable fee for sending the notice required by this subsection.~~]

(b) The operator of a vehicle storage facility who receives a vehicle that is registered outside this state or the United States shall send a written notice to the vehicle's last registered owner and all recorded lienholders not later than the 14th day but not before 24 hours after the date the operator receives the vehicle.

(c) It is a defense to an action initiated by the department for a violation of this section that the facility has attempted in writing to obtain information

from the governmental entity in which the vehicle is registered but was unsuccessful.

(d) [~~(b)~~] The notice must be correctly addressed, with sufficient postage, sent by certified mail, return receipt requested, and must contain:

(1) the date the vehicle was accepted for storage;

(2) the first day for which a storage fee is assessed;

(3) the daily storage rate;

(4) the type and amount of all other charges to be paid when the vehicle is claimed;

(5) the full name, street address, and telephone number of the facility;

(6) the hours during which the owner may claim the vehicle; and

(7) the facility license number preceded by "Texas Department of Transportation Vehicle Storage Facility License Number."

(e) Notice by publication in a newspaper of general circulation in the county in which the vehicle is stored may be used if:

(1) the vehicle is registered in another state;

(2) the operator of the storage facility submits a written request that is correctly addressed, with sufficient postage, and is sent by certified mail, return receipt requested, to the governmental entity in which the vehicle is registered requesting information relating to the identity of the last known registered owner and any lienholder of record;

(3) the identity of the last known registered owner cannot be determined;

(4) the registration does not contain an address for the last known registered owner; and

(5) the operator of the storage facility cannot reasonably determine the identity and address of each leinholder.

(f) Notice by publication under Subsection (e) of this section is not required if all correctly addressed notices sent with sufficient postage under Subsection (a) or (b) of this section are returned because:

(1) the notices were unclaimed or refused; or

(2) the addressees moved without leaving a forwarding address.

(g) Notice by publication must contain all of the information required by this section. The publication may contain a list of more than one vehicle, watercraft, or outboard motor.

(h) Notice under Subsection (a) or (b) of this section is considered to have been given on the date indicated on the postmark and [~~(c) A notice~~] is considered to be timely filed if the postmark shows that it was mailed within the [~~five-day~~] period provided by Subsection (a) or (b) of this section, as applicable, or if publication was made as authorized by Subsection (e) of this section.

(i) The operator of the storage facility may charge the owner of the vehicle a reasonable fee for giving the notice required by this section.

(j) [~~(d)~~] If a vehicle for which notice was given [~~sent~~] under [~~Subsection (a) of~~] this section has not, before the 41st [~~61st~~] day after the date notice was mailed or published, been claimed by a person permitted to claim the vehicle or been taken into custody by a law enforcement agency under

Chapter 683, Transportation Code, the operator of the vehicle storage facility shall send a second notice to the registered owner and primary lienholder. The second notice must contain:

(1) the information required under Subsection (d) [~~(b)~~] of this section;

(2) a statement of the right of the facility to dispose of the vehicle under Section 14B of this article; and

(3) a statement that the failure of the owner or lienholder to claim the vehicle before the 30th day after the date the second notice was mailed is:

(A) a waiver by that person of all right, title, and interest in the vehicle; and

(B) a consent to the sale of the vehicle at a public sale.

SECTION 2. Section 14B(a), Vehicle Storage Facility Act (Article 6687-9a, Revised Statutes), is amended to read as follows:

(a) The operator of a vehicle storage facility may dispose of a vehicle for which notice was given [~~sent~~] under Section 13(j) [~~13(d)~~] of this article as provided by this section if, before the 30th day after the date the notice was mailed, the vehicle has not been:

(1) claimed by a person entitled to claim the vehicle; or

(2) taken into custody by a law enforcement agency under Chapter 683, Transportation Code.

SECTION 3. Section 14(d), Vehicle Storage Facility Act (Article 6687-9a, Revised Statutes), is amended to read as follows:

(d) The operator of a vehicle storage facility may charge a fee under Subsection (c):

(1) for not more than five days before the date notice described by Section 13 of this article is mailed or published; and

(2) after the date notice is mailed or published, for each day the vehicle is in storage until the vehicle is removed and all accrued charges are paid.

SECTION 4. (a) This Act takes effect September 1, 1999. The change in law made by this Act applies only to a vehicle received by a vehicle storage facility on or after the effective date of this Act.

(b) A vehicle received before the effective date of this Act is covered by the law in effect when the vehicle was received, and the former law is continued in effect for that purpose.

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 Bosse moved to adopt the conference committee report on **HB 1376**.

The motion prevailed without objection.

HB 1453 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Smith submitted the following conference committee report on **HB 1453**:

Austin, Texas, May 28, 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 1453** 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.

Madla	Smith
Armbrister	Seaman
Sibley	Thompson
Carona	Smithee
On the part of the Senate	On the part of the House

HB 1453, A bill to be entitled An Act relating to coverage under a title insurance policy issued with respect to residential real property.

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

SECTION 1. Article 9.07A, Insurance Code, is amended by adding Subsection (f) to read as follows:

(f) For an owner policy on residential real property that is issued to a natural person, the commissioner may adopt coverages that insure against:

(1) ad valorem taxes, including penalties and interest, to be paid with respect to the property for a previous tax year and that are delinquent on the effective date of the policy because of sale, diversion, or change of use, unless excluded because the insured has actual knowledge of the delinquent taxes; and

(2) ad valorem taxes, including penalties and interest, to be paid with respect to the property for a previous tax year because of an exemption granted to a previous owner of the property under Section 11.13, Tax Code, or because of improvements not assessed for a previous tax year, unless excluded because the insured has actual knowledge of the taxes.

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

SECTION 3. Article 9.07A(f), Insurance Code, as added by this Act, applies only to an owner policy of title insurance that is delivered or issued for delivery on or after January 1, 2000. An owner policy of title insurance that is delivered or issued for delivery 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.

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 Smith moved to adopt the conference committee report on **HB 1453**.

The motion prevailed without objection.

HB 1884 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Grusendorf submitted the following conference committee report on **HB 1884**:

Austin, Texas, May 29, 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 1884** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Harris	Grusendorf
Ellis	Goodman
Madla	Pickett
On the part of the Senate	On the part of the House

HB 1884, A bill to be entitled An Act relating to the collection and enforcement of child support.

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

SECTION 1. Section 158.204, Family Code, is amended to read as follows:

Sec. 158.204. EMPLOYER MAY DEDUCT FEE FROM EARNINGS. An employer may deduct an administrative fee of not more than $10 [~~$5~~] each month from the obligor's disposable earnings in addition to the amount to be withheld as child support.

SECTION 2. Section 158.206(b), Family Code, is amended to read as follows:

(b) An employer receiving an order or writ of withholding who does not comply with the order or writ is liable:

(1) to the obligee for the amount not paid in compliance with the order or writ, including the amount the obligor is required to pay for health insurance under Chapter 154;

(2) to the obligor for:

(A) the amount withheld and not paid as required by the order or writ; and

(B) an amount equal to the interest that accrues under Section 157.265 on the amount withheld and not paid; and

(3) for reasonable attorney's fees and court costs.

SECTION 3. Section 203.004(a), Family Code, is amended to read as follows:

(a) A domestic relations office may:

(1) collect and disburse child support payments that are ordered by a court to be paid through a domestic relations registry;

(2) maintain records of payments and disbursements made under Subdivision (1);

(3) file a suit, including a suit to:

(A) establish paternity;

(B) enforce a court order for child support or for possession of and access to a child; and

(C) modify or clarify an existing child support order;

(4) provide an informal forum in which:

(A) mediation is used to resolve disputes in an action under Subdivision (3); or

(B) an agreed repayment schedule for delinquent child support is negotiated as an alternative to filing a suit to enforce a court order for child support under Subdivision (3);

(5) prepare a court-ordered social study;

(6) represent a child as guardian ad litem in a suit in which:

(A) termination of the parent-child relationship is sought; or

(B) conservatorship of or access to a child is contested;

(7) serve as a friend of the court;

(8) provide predivorce counseling ordered by a court;

(9) provide community supervision services under Chapter 157; and

(10) provide information to assist a party in understanding, complying with, or enforcing the party's duties and obligations under Subdivision (3).

SECTION 4. Section 203.007, Family Code, is amended to read as follows:

Sec. 203.007. ACCESS TO RECORDS; OFFENSE. (a) A domestic relations office may obtain the records described by Subsections (b), [~~and~~] (c), (d), and (e) that relate to a person who has:

(1) been ordered to pay child support;

(2) been designated as a possessory conservator or managing conservator of a child;

(3) been designated to be the father of a child; or

(4) executed a statement of paternity.

(b) A domestic relations office is entitled to obtain from the Department of Public Safety records that relate to:

(1) a person's date of birth;

(2) a person's most recent address;

(3) a person's current driver's license status;

(4) motor vehicle accidents involving a person; and

(5) reported traffic-law violations of which a person has been convicted.

(c) A domestic relations office is entitled to obtain from the Texas Workforce [~~Employment~~] Commission records that relate to:

(1) a person's address;

(2) a person's employment status and earnings;

(3) the name and address of a person's current or former employer; and

(4) unemployment compensation benefits received by a person.

(d) To the extent permitted by federal law, a domestic relations office is entitled to obtain from the national directory of new hires established under

42 U.S.C. Section 653(i), as amended, records that relate to a person described by Subsection (a), including records that relate to:

(1) the name, telephone number, and address of the person's employer;

(2) information provided by the person on a W-4 form; and

(3) information provided by the person's employer on a Title IV-D form.

(e) To the extent permitted by federal law, a domestic relations office is entitled to obtain from the state case registry records that relate to a person described by Subsection (a), including records that relate to:

(1) the street and mailing address and the social security number of the person;

(2) the name, telephone number, and address of the person's employer;

(3) the location and value of real and personal property owned by the person; and

(4) the name and address of each financial institution in which the person maintains an account and the account number for each account.

(f) An agency required to provide records under this section may charge a domestic relations office a fee for providing the records in an amount that does not exceed the amount paid for those records by the agency responsible for Title IV-D cases.

(g) [~~(e)~~] The Department of Public Safety, the Texas Workforce [~~Employment~~] Commission, or the office of the secretary of state may charge a domestic relations office a fee not to exceed the charge paid by the Title IV-D agency for furnishing records under this section.

(h) [~~(f)~~] Information obtained by a domestic relations office under this section that is confidential under a constitution, statute, judicial decision, or rule is privileged and may be used only by that office.

(i) [~~(g)~~] A person commits an offense if the person releases or discloses confidential information obtained under this section without the consent of the person to whom the information relates. An offense under this subsection is a Class C misdemeanor.

(j) [~~(h)~~] A domestic relations office is entitled to obtain from the office of the secretary of state the following information about a registered voter to the extent that the information is available:

(1) complete name;

(2) current and former street and mailing address;

(3) sex;

(4) date of birth;

(5) social security number; and

(6) telephone number.

SECTION 5. Section 231.303(d), Family Code, is amended to read as follows:

(d) An individual or organization may not be liable in a civil action or proceeding for disclosing financial or other information to a Title IV-D agency under this section. The Title IV-D agency may disclose information in a financial record obtained from a financial institution only to the extent necessary:

(1) to establish, modify, or enforce a child support obligation; or

(2) to comply with Section 233.001, as added by Chapter 420, Acts of the 75th Legislature, Regular Session, 1997.

SECTION 6. Section 233.003, Family Code, as added by Chapter 420, Acts of the 75th Legislature, Regular Session, 1997, is amended to read as follows:

Sec. 233.003. APPLICATION FOR SERVICES NOT REQUIRED. The Title IV-D agency may not require an application for services as a condition for:

(1) releasing information under Section 233.001 [~~to a custodial parent or to the person designated by the parent~~]; or

(2) including a case in the state case registry under Section 233.002.

SECTION 7. This Act takes effect September 1, 1999, and applies only to child support withheld on or after that date. Child support withheld before the effective date of this Act is governed by the law in effect on the date the child support was withheld, and the former law is continued in effect for that purpose.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Representative Grusendorf moved to adopt the conference committee report on **HB 1884**.

The motion prevailed without objection.

HB 1961 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Grusendorf submitted the following conference committee report on **HB 1961**:

Austin, Texas, May 28, 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 1961** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Barrientos	Grusendorf
Zaffirini	Dunnam
Sibley	Olivo
	Dutton
On the part of the Senate	On the part of the House

HB 1961, A bill to be entitled An Act relating to fines collected for thwarting the compulsory school attendance law.

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

SECTION 1. Section 25.093(f), Education Code, is amended to read as follows:

(f) A fine collected under this section shall be deposited as follows:

(1) one-half shall be deposited to the credit of the operating fund of the school district in which the child attends school or of the juvenile justice alternative education program that the child has been ordered to attend, as applicable; and

(2) one-half shall be deposited to the credit of:

(A) the general fund of the county, if the complaint is filed in the county court or justice court; or

(B) the general fund of the municipality, if the complaint is filed in municipal court.

SECTION 2. Section 25.093(f), Education Code, as amended by this Act, applies only to a fine collected under Section 25.093, Education Code, on or after the effective date of this Act.

SECTION 3. This Act takes effect September 1, 1999.

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 Grusendorf moved to adopt the conference committee report on **HB 1961**.

The motion prevailed without objection.

HB 2815 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Junell submitted the following conference committee report on **HB 2815**:

Austin, Texas, May 28, 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 2815** 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	Junell
Armbrister	Counts
Haywood	T. King
Lucio	Cook
Bivins	Swinford
On the part of the Senate	On the part of the House

HB 2815, A bill to be entitled An Act relating to the petroleum storage tank program; providing a penalty.

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

SECTION 1. Section 26.342, Water Code, is amended by adding a new Subdivision (8) and redesignating existing Subdivisions (8) through (16) as Subdivisions (9) through (17) to read as follows:

(8) "Operator" means any person in day-to-day control of and having responsibility for the daily operation of the underground storage tank system.

(9) [~~(8)~~] "Person" means an individual, trust, firm, joint-stock company, corporation, government corporation, partnership, association, state, municipality, commission, political subdivision of a state, an interstate body, a consortium, joint venture, commercial entity, or the United States government.

(10) [~~(9)~~] "Petroleum product" means a petroleum product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel for the propulsion of a motor vehicle or aircraft, including motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil, and #1 and #2 diesel. The term does not include naphtha-type jet fuel, kerosene-type jet fuel, or a petroleum product destined for use in chemical manufacturing or feedstock of that manufacturing.

(11) [~~(10)~~] "Petroleum storage tank" means:

(A) any one or combination of aboveground storage tanks that contain petroleum products and that are regulated by the commission; or

(B) any one or combination of underground storage tanks and any connecting underground pipes that contain petroleum products and that are regulated by the commission.

(12) [~~(11)~~] "Regulated substance" means an element, compound, mixture, solution, or substance that, when released into the environment, may present substantial danger to the public health, welfare, or the environment.

(13) [~~(12)~~] "Release" means any spilling including overfills, leaking, emitting, discharging, escaping, leaching, or disposing from an underground or aboveground storage tank into groundwater, surface water, or subsurface soils.

(14) [~~(13)~~] "Risk-based corrective action" means site assessment or site remediation, the timing, type, and degree of which is determined according to case-by-case consideration of actual or potential risk to public health from environmental exposure to a regulated substance released from a leaking underground or aboveground storage tank.

(15) [~~(14)~~] "Spent oil" means a regulated substance that is a lubricating oil or similar petroleum substance which has been refined from crude oil, used for its designed or intended purposes, and contaminated as a result of that use by physical or chemical impurities, including spent motor vehicle lubricating oils, transmission fluid, or brake fluid.

(16) [~~(15)~~] "Underground storage tank" means any one or combination of underground tanks and any connecting underground pipes used to contain an accumulation of regulated substances, the volume of which, including the volume of the connecting underground pipes, is 10 percent or more beneath the surface of the ground.

(17) [~~(16)~~] "Vehicle service and fueling facility" means a facility

where motor vehicles are serviced or repaired and where petroleum products are stored and dispensed from fixed equipment into the fuel tanks of motor vehicles.

SECTION 2. Sections 26.346(a) and (c), Water Code, are amended to read as follows:

(a) An underground or aboveground storage tank must be registered with the commission unless the tank is exempt from regulation under Section 26.344 of this code or the tank is covered under Subsection (b) of this section. The commission by rule shall establish the procedures and requirements for establishing and maintaining current registration information concerning underground and aboveground storage tanks. The commission shall also require that an owner or operator of an underground storage tank complete an annual underground storage tank compliance certification form.

(c) The commission shall issue to each person who owns or operates a petroleum storage tank that is registered under this section a registration and compliance confirmation certificate that includes a brief description of:

(1) the responsibility of the owner or operator under Section 26.3512 of this code; [~~and~~]

(2) the rights of the owner or operator to participate in the petroleum storage tank remediation account and the groundwater protection cleanup program established under this subchapter; and

(3) the responsibility of the owner or operator of an underground storage tank to accurately complete the part of the registration form pertaining to the certification of compliance with underground storage tank administrative requirements and technical standards.

SECTION 3. Subchapter I, Chapter 26, Water Code, is amended by adding Sections 26.3465 and 26.3467 to read as follows:

Sec. 26.3465. FAILURE OR REFUSAL TO PROVIDE PROOF OF REGISTRATION OR CERTIFICATION OF COMPLIANCE. An owner or operator of an underground storage tank who fails or refuses to provide, on request of the commission, proof of registration of or certification of compliance for an underground storage tank is liable for a civil penalty under Subchapter D, Chapter 7.

Sec. 26.3467. DUTY TO ENSURE CERTIFICATION OF TANK BEFORE DELIVERY. (a) The owner or operator of an underground storage tank into which a regulated substance is to be deposited shall provide the common carrier a copy of the certificate of compliance for the specific underground storage tank into which the regulated substance is to be deposited before accepting delivery of the regulated substance into the underground storage tank.

(b) A person who violates Subsection (a) commits an offense that is punishable as provided by Section 7.156 for an offense under that section.

(c) A person who sells a regulated substance to a common carrier who delivers the regulated substance to the owner or operator of an underground storage tank into which the regulated substance is deposited, and who does not deliver the regulated substance into the underground storage tank, is not liable under this chapter with respect to that tank.

SECTION 4. Section 7.156, Water Code, is amended by adding

Subsection (c) and redesignating existing Subsection (c) as Subsection (d) to read as follows:

(c) A person commits an offense if the person is an owner or operator of an undeground storage tank regulated under Chapter 26 into which any regulated substance is delivered or physically delivers any regulated substance into an underground storage tank regulated under Chapter 26 unless the underground storage tank has been issued a valid, current underground storage tank registration and certificate of compliance under Section 26.346.

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

SECTION 5. Subchapter E, Chapter 7, Water Code, is amended by adding Section 7.1565 to read as follows:

Sec. 7.1565. PRESUMPTION. If in the exercise of good faith a person depositing or causing to be deposited a regulated substance into an underground storage tank regulated under Chapter 26 receives a certificate of compliance for that underground storage tank under Section 26.346, the receipt of the certificate of compliance shall be considered prima facie evidence of compliance with this section.

SECTION 6. Sections 26.3512(g), (h), (i), and (j), Water Code, are amended to read as follows:

(g) If an owner or operator's corrective action plan is approved by the commission under Section 26.3572 before June 23, 1998 [~~December 23, 1997~~], the owner or operator shall pay under Subsection (b)(1) the amount provided by Subsection (e) for the first expenses for corrective action taken for each occurrence.

(h) If an owner or operator's corrective action plan is not approved by the commission under Section 26.3572 before June 23, 1998 [~~December 23, 1997~~], the owner or operator shall pay under Subsection (b)(1) the first expenses for corrective action taken for each occurrence as follows:

(1) a person who owns or operates 1,000 or more single petroleum storage tanks, the first $40,000;

(2) a person who owns or operates not fewer than 100 or more than 999 single petroleum storage tanks, the first $20,000;

(3) a person who owns or operates not fewer than 13 or more than 99 single petroleum storage tanks, the first $10,000; and

(4) a person who owns or operates fewer than 13 single petroleum storage tanks, the first $4,000.

(i) If an owner or operator has a corrective action plan approved by the commission under Section 26.3572 and before December 23, 1999 [~~December 23, 1998~~], has met the goals specified in the plan to be met by that date, the owner or operator shall pay under Subsection (b)(1) the amount specified by Subsection (e) for the first expenses for corrective action taken for each occurrence.

(j) If an owner or operator does not have a corrective action plan approved by the commission under Section 26.3572 and before December 23, 1999 [~~or, on December 23, 1998~~], has not met the goals specified in the plan to be met by that date, the owner or operator shall pay under Subsection (b)(1) the first expenses for corrective action taken for each occurrence as follows:

(1) a person who owns or operates 1,000 or more single petroleum storage tanks, the first $80,000;

(2) a person who owns or operates not fewer than 100 or more than 999 single petroleum storage tanks, the first $40,000;

(3) a person who owns or operates not fewer than 13 or more than 99 single petroleum storage tanks, the first $20,000; and

(4) a person who owns or operates fewer than 13 single petroleum storage tanks, the first $8,000.

SECTION 7. Section 26.35731, Water Code, is amended by adding Subsection (c) to read as follows:

(c) Not later than the 90th day after the date on which the commission receives a completed application for reimbursement from the petroleum storage tank remediation account, the commission shall send a fund payment report to the owner or operator of a petroleum storage tank system that is seeking reimbursement.

SECTION 8. This Act takes effect September 1, 1999.

SECTION 9. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Representative Junell moved to adopt the conference committee report on **HB 2815**.

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

HB 3255 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Gallego submitted the following conference committee report on **HB 3255**:

Austin, Texas, May 28, 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 3255** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Carona	Gallego
Jackson	Hinojosa
Armbrister	Keel
Shapiro	Dunnam
On the part of the Senate	On the part of the House

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.

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

SECTION 1. Article 56.32(9), Code of Criminal Procedure, is amended to read as follows:

(9) "Pecuniary loss" means the amount of expense reasonably and necessarily incurred as a result of personal injury or death for:

(A) medical, hospital, nursing, or psychiatric care or counseling, or physical therapy;

(B) actual loss of past earnings and anticipated loss of future earnings and necessary travel expenses because of:

(i) a disability resulting from the personal injury;

(ii) the receipt of medically indicated services related to the disability resulting from the personal injury; or

(iii) participation in or attendance at investigative, prosecutorial, or judicial processes related to the criminally injurious conduct and participation in or attendance at any postconviction or postadjudication proceeding relating to criminally injurious conduct;

(C) care of a child or dependent;

(D) funeral and burial expenses;

(E) loss of support to a dependent, consistent with Article 56.41(b)(5);

(F) reasonable and necessary costs of cleaning the crime scene; [~~and~~]

(G) reasonable replacement costs for clothing, bedding, or property of the victim seized as evidence or rendered unusable as a result of the criminal investigation; and

(H) reasonable and necessary costs, as provided by Article 56.42(d), incurred by a victim of domestic violence for relocation and housing rental assistance payments.

SECTION 2. Article 56.42, Code of Criminal Procedure, is amended by adding Subsection (d) to read as follows:

(d) A victim who is a victim of domestic violence may receive a onetime-only assistance payment in an amount not to exceed:

(1) $2,000 to be used for relocation expenses, including expenses for rental deposit, utility connections, expenses relating to the moving of belongings, motor vehicle mileage expenses, and for out-of-state moves, transportation, lodging, and meals; and

(2) $1,800 to be used for housing rental expenses.

SECTION 3. (a) The changes in law made by this Act apply only to a victim of a criminal offense committed or a violation that occurs on or after the effective date of this Act. For the purposes of this Act, a criminal offense is committed or a violation occurs before the effective date of this Act if any element of the offense or violation occurs before that date.

(b) A criminal offense committed or violation that occurs before the effective date of this Act is covered by the law in effect when the criminal offense was committed or the violation occurred, and the former law is continued in effect for this 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, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Representative Gallego moved to adopt the conference committee report on **HB 3255**.

A record vote was requested.

The motion prevailed by (Record 528): 144 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; Corte; 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; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Krusee; Kuempel; Lengefeld; Lewis, G.; 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; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Crownover; Jones, D.

Absent — Howard; Lewis, R.; West.

HB 3620 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative R. Lewis submitted the following conference committee report on **HB 3620**:

Austin, Texas, May 28, 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 3620** 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.

Bernsen	R. Lewis
Jackson	Hamric
Lucio	Cook
Armbrister	Walker
Brown	
On the part of the Senate	On the part of the House

HB 3620, A bill to be entitled An Act relating to the exchange and conveyance of lands by certain navigation districts.

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

SECTION 1. Section 1, Chapter 176, Acts of the 54th Legislature, Regular Session, 1955 (Article 8247f, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. The Governing Board of any navigation district in this State heretofore or hereafter created under the laws of this State [~~and having within its limits a city containing two hundred and fifty thousand (250,000) population or more according to the latest preceding or any future Federal Census~~] shall have and there is hereby conferred the right, power and authority, when in the opinion of a majority of said Governing Board it is necessary, desirable or advantageous to the interest of said navigation district so to do, to exchange lands with any other public or private landowner, or, as an incident to the acquisition of lands for the uses and purposes of said navigation district, to make conveyance to another state or federal governmental entity, person, firm or corporation of lands owned and held by said navigation district the ownership and use of which was no longer necessary or desirable or the use of which lands was not as feasible or desirable for the public purposes of said navigation district as is and as will be the lands to be acquired by said navigation district, in accordance with any terms, conditions, or stipulations agreed on by the parties to the exchange or conveyance.

SECTION 2. Section 1 of this Act does not:

(1) affect a limitation or condition contained in:

(A) a lease of land by the state to a navigation district; or

(B) a conveyance of land from the state to a navigation district under former Article 8225, Revised Statutes, or any other general or special law; or

(2) in any way affect Section 61.116 or 61.117, Water Code.

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

Representative R. Lewis moved to adopt the conference committee report on **HB 3620**.

The motion prevailed without objection.

HB 3793 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Averitt submitted the following conference committee report on **HB 3793**:

Austin, Texas, May 24, 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 3793** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Sibley	Averitt
Armbrister	Wohlgemuth
Brown	R. Lewis
Lucio	Dunnam
	Counts
On the part of the Senate	On the part of the House

HB 3793, A bill to be entitled An Act relating to the authority of the Brazos River Authority to contract with certain persons, to manage property of the authority, and to issue bonds for and otherwise finance services, facilities, or works of the authority.

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

SECTION 1. Chapter 13, Acts of the 41st Legislature, 2nd Called Session, 1929, as amended, is amended by adding Section 11 to read as follows:

Sec. 11. (a) The Authority is a district and a river authority as defined in the Regional Waste Disposal Act, as amended (Chapter 30, Water Code), and all of the provisions of the Regional Waste Disposal Act, as amended, are applicable to the Authority.

(b) As used in this Act:

(1) "Person" means any individual, partnership, corporation, public utility, or other private entity or any public agency.

(2) "Public agency" means any authority, district, city, town, or other political subdivision, joint board, or other public agency created pursuant to and operating under the laws of the State of Texas.

(c) The Authority and all persons are authorized to contract with each other in any manner and on terms as to which the parties may agree with respect to any power, function, facilities, or services which the Authority is authorized by law to provide or finance. All public agencies are authorized to use and pledge any available revenues for and in the payment of amounts due under the contracts as an additional source or sources of payment of the contracts or as the sole source or sources of payment of the contracts and may covenant with respect to available revenues so as to assure the availability of these revenues when required. The term "revenues" as used in this subsection does not mean or include revenues from ad valorem taxes levied

and collected by a public agency or the proceeds from the sale or refunding of bonds of a public agency that are to be wholly or partially paid from ad valorem taxes levied and collected by the public agency unless the use or pledge of the tax revenues or bond proceeds are approved by the qualified voters of the public agency at an election called for the purpose of levying taxes or issuing or refunding bonds or both for the purpose of using or pledging their revenues or proceeds under contracts entered into under this subsection.

(d) Each public agency is authorized to fix, charge, and collect fees, rates, charges, rentals, and other amounts for any services or facilities provided by any utility operated by it or provided pursuant to or in connection with any contract with the Authority from its inhabitants or from any users or beneficiaries of any utility, services, or facilities, including specifically water charges, sewage charges, solid waste disposal system fees and charges, including garbage collection or handling fees, and other fees or charges and to use and pledge same to make payments to the Authority required under the contract and may covenant to do so in amounts sufficient to make all or any part of the payments to the Authority when due. The payments shall, if the parties agree in the contract, constitute an expense of operation of any facilities or utility operated by the public agency.

(e) The Authority, acting through its Board, is authorized to undertake and carry out any activities and to acquire, purchase, construct, own, operate, maintain, repair, improve, or extend and to lease or sell on terms and conditions, including rentals or sale prices, on which the parties may agree any and all works, improvements, facilities, plants, buildings, structures, equipment, and appliances and all real and personal property or any interest in real or personal property related thereto that are incident to or necessary in carrying out or performing any power or function of the Authority under this section.

(f) The Authority is authorized to issue bonds with respect to the acquisition, purchase, construction, maintenance, repair, improvement, and extension of works, improvements, facilities, plants, buildings, structures, appliances, and property for the purpose of exercising any of its powers and functions under this section in the manner provided by this Act or any other applicable law. The Authority is further authorized to issue revenue bonds to pay for the costs of feasibility studies for proposed projects of the Authority, including engineering, planning and design, and environmental studies. The Authority is authorized to include in any revenue bond issue the funds to operate and maintain for a period not to exceed two years after completion of the facilities acquired or constructed through the revenue bond issue. If any bonds issued by the Authority recite that they are secured by a pledge of payments under any contract, a copy of the contract and the proceedings relating to the contract may be submitted to the attorney general along with the bonds, and if the attorney general finds that the bonds have been authorized and the contract or contracts has or have been made and entered into in accordance with law, then he shall approve the bonds and the contract or contracts, and after the approval, the bonds and the contract or contracts shall be incontestable in any court or other forum for any reason

and shall be valid and binding in accordance with its or their terms and provisions for all purposes. The provisions of Chapter 503, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 717k, Vernon's Texas Civil Statutes), Chapter 3, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 717k-2, Vernon's Texas Civil Statutes), Chapter 784, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 717k-3, Vernon's Texas Civil Statutes), Chapter 845, Acts of the 67th Legislature, Regular Session, 1981, as amended (Article 717k-6, Vernon's Texas Civil Statutes), the Texas Uniform Facsimile Signature of Public Officials Act, as amended (Article 717j-1, Vernon's Texas Civil Statutes), and Chapter 656, Acts of the 68th Legislature, Regular Session, 1983, as amended (Article 717q, Vernon's Texas Civil Statutes), are applicable to bonds issued by the Authority.

(g) This section is wholly sufficient authority within itself for the issuance of the bonds, the execution of contracts, and the performance of the other acts and procedures authorized in this section by the Authority and all persons, including specifically public agencies, without reference to any other provisions of law or any restrictions or limitations contained therein, except as in this section specifically provided; and in any case, to the extent of any conflict or inconsistency between any provisions of this subsection and any other provisions of law, including any home-rule city charter, this subsection shall prevail and control; provided, however, that the Authority and all persons, including specifically public agencies, shall have the right to use any other provisions of law not in conflict with the provisions of this section to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this section.

SECTION 2. Section 12, Chapter 368, Acts of the 44th Legislature, 1st Called Session, 1935, as amended, is amended to read as follows:

Sec. 12. Nothing in this Act shall be construed as authorizing the Authority, and it shall not be authorized to mortgage, or otherwise encumber any of its property of any kind, real, personal or mixed, or any interest therein, or to acquire any such property or interest subject to a mortgage or conditional sale, provided that this Section shall not be construed as preventing the pledging of the revenues of the Authority as herein authorized. Nothing in this Act shall be construed as authorizing the sale, release or other disposition of any such property or interest by the Authority, or any receiver of any of the Authority property, or through any court proceedings, or otherwise; provided, however, that the Authority may sell for cash any such property or interest [~~in an aggregate value not exceeding the sum of One Hundred Thousand Dollars ($100,000) in any one (1) year~~] if the Board by affirmative vote of eleven (11) of its members shall have determined that the property or interest is not necessary to the business of the Authority, and shall have approved the terms of any such sale, it being the intention of this Act that except by sale as in this Section expressly authorized, no such property or interest shall ever come into the ownership or control, directly of indirectly, of any person, firm or corporation other than a public authority created under the laws of the State of Texas. All property of the Authority shall be at all times exempted from forced sale, and nothing in this Act

contained shall authorize the sale of any of the property of the Authority under any judgment rendered in any suit and such sales are hereby prohibited and forbidden. Notwithstanding any restrictions or provisions in this Section 12 or in this Act contained, the Authority, acting by a majority vote of the members of its Board, shall have the power to construct or purchase from any person, firm or corporation with which Authority shall have contracted to sell hydro-electric power, (herein referred to in this Section as "Customer") transmission lines and other property used or to be used by such Customer for the transmission of or in connection with power purchased or to be purchased from the Authority, and to lease all, or any portion of such property to such Customer for all or any portion of the time during the term of such hydro-electric power purchase contract, which lease may contain provisions, which shall be valid and enforceable, giving the lessee the right to purchase from the Authority all or any portion of said property at or within the time specified in the lease and for a price and upon terms and conditions specified in the lease. Such price shall never be less than the depreciated value, determined in the manner prescribed in such lease plus one per cent (1%) of the original cost of such property. [~~Any price paid or to be paid because of such purchase shall not be taken into consideration in applying the limitation of One Hundred Thousand Dollars ($100,000) in any one (1) year of the value of property that may be sold by the Authority as hereinabove in this Section 12 prescribed, but such payment may be made in excess of such limitation.~~]

SECTION 3. Proof of publication of the constitutional notice required in the enactment hereof under the provisions of Article XVI, Section 59(d), of the Texas Constitution has been made in the manner provided therein and a copy of said notice and the bill as originally introduced have been delivered to the Governor of the State of Texas as required in such constitutional provision, and such notice and delivery are hereby found and declared to be proper and sufficient to satisfy such requirements.

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 Averitt moved to adopt the conference committee report on **HB 3793**.

The motion prevailed without objection.

SB 104 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Coleman submitted the conference committee report on **SB 104**.

Representative Coleman moved to adopt the conference committee report on **SB 104**.

A record vote was requested.

The motion prevailed by (Record 529): 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; Corte; 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.; 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; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Crownover; Jones, D.

Absent — Moreno, P.; Wohlgemuth.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 71 and Senate List Nos. 36 and 37).

SB 560 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Goodman submitted the conference committee report on **SB 560**.

Representative Goodman moved to adopt the conference committee report on **SB 560**.

The motion prevailed without objection. (Burnam recorded voting present, not voting)

HB 1188 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Gallego submitted the following conference committee report on **HB 1188**:

Austin, Texas, May 29, 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 1188** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Shapiro	Gallego
Fraser	B. Turner
Nelson	Keel
Armbrister	Hupp
Duncan	
On the part of the Senate	On the part of the House

HB 1188, A bill to be entitled An Act relating to the creation of a DNA record for certain persons convicted of, or adjudicated as having engaged in delinquent conduct violating, the offense of murder, aggravated assault, burglary, or an offense on conviction of which registration as a sex offender is required.

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

SECTION 1. Section 411.148(a), Government Code, is amended to read as follows:

(a) An inmate of the institutional division or other penal institution shall provide one or more blood samples or other specimens taken by or at the request of the institutional division for the purpose of creating a DNA record if the inmate is ordered by a court to give the sample or specimen or is serving a sentence for:

(1) an offense:

(A) under Section 19.02, Penal Code (murder), or Section 22.02, Penal Code (aggravated assault);

(B) under Section 30.02, Penal Code (burglary), if the offense is punishable under Subsection (c)(2) or (d) of that section; or

(C) for which the inmate is required to register as a sex offender under Chapter 62, Code of Criminal Procedure, as added by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997 [~~under one or more of the following Penal Code provisions:~~

[~~(A) Section 21.11 (indecency with a child);~~

[~~(B) Section 22.011 (sexual assault);~~

[~~(C) Section 22.021 (aggravated sexual assault);~~

[~~(D) Section 20.04(a)(4) (aggravated kidnapping), if the defendant committed the offense with intent to violate or abuse the victim sexually; or~~

[~~(E) Section 30.02 (burglary), if the offense is punishable under Subsection (d) of that section and the defendant committed the offense with intent to commit a felony listed in Paragraph (A), (B), (C), or (D) of this subdivision~~]; or

(2) any offense if the inmate has previously been convicted of or adjudicated as having engaged in:

(A) an offense described in Subsection (a)(1); or

(B) an offense under federal law or laws of another state that involves the same conduct as an offense described by Subsection (a)(1).

SECTION 2. Section 411.150(a), Government Code, is amended to read as follows:

(a) A juvenile who is committed to the Texas Youth Commission shall provide one or more blood samples or other specimens taken by or at the request of the commission for the purpose of creating a DNA record if the juvenile is ordered by a juvenile court to give the sample or specimen or is committed to the commission for an adjudication as having engaged in delinquent conduct that violates:

(1) an offense:

(A) under Section 19.02, Penal Code (murder), or Section 22.02, Penal Code (aggravated assault);

(B) under Section 30.02, Penal Code (burglary), if the offense is punishable under Subsection (c)(2) or (d) of that section; or

(C) for which the juvenile is required to register as a sex offender under Chapter 62, Code of Criminal Procedure, as added by Chapter 668, Acts of the 75th Legislature, Regular Session, 1997 [~~one or more of the following Penal Code provisions:~~

[~~(A) Section 21.11 (indecency with a child);~~

[~~(B) Section 22.011 (sexual assault);~~

[~~(C) Section 22.021 (aggravated sexual assault);~~

[~~(D) Section 20.04(a)(4) (aggravated kidnapping), if the defendant committed the offense with the intent to violate or abuse the victim sexually; or~~

[~~(E) Section 30.02 (burglary), if the offense is punishable under Subsection (d) and the defendant committed the offense with the intent to commit a felony listed in Paragraph (A), (B), (C), or (D) of this subdivision~~]; or

(2) a penal law if the juvenile has previously been convicted of or adjudicated as having engaged in:

(A) a violation of a penal law described in Subsection (a)(1); or

(B) a violation of a penal law under federal law or the laws of another state that involves the same conduct as a violation of a penal law described by Subsection (a)(1).

SECTION 3. As required by Section 411.148, Government Code, as amended by this Act, the institutional division of the Texas Department of Criminal Justice shall collect a blood sample or other specimen from an inmate serving a sentence for murder, aggravated assault, burglary punishable under Section 30.02(c)(2), Penal Code, or an offense for which registration as a sex offender is required but for which the collection of a blood sample or other specimen was not required before the effective date of this Act or from an inmate having previously been convicted of one of those offenses. The division shall collect the sample or specimen during the diagnostic process, but only from an inmate who has not completed the diagnostic process before February 1, 2000. The division shall collect the sample or specimen from an inmate who has completed the diagnostic process before February 1,

2000, not later than the 90th day before the inmate's earliest parole eligibility date, unless the inmate's earliest parole eligibility date is before May 1, 2000, in which event the division shall collect the sample or specimen as soon as possible after February 1, 2000.

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 Gallego moved to adopt the conference committee report on **HB 1188**.

The motion prevailed without objection.

HB 2434 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Uher submitted the following conference committee report on **HB 2434**:

Austin, Texas, May 28, 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 2434** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Moncrief	Uher
Madla	Tillery
Nixon	Greenberg
Lindsay	Carter
Ellis	
On the part of the Senate	On the part of the House

HB 2434, A bill to be entitled An Act relating to insurance provided by or through certain development corporations created by certain political subdivisions.

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

SECTION 1. Section 23, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended by adding Subsections (c) and (d) to read as follows:

(c) Notwithstanding any law to the contrary, any corporation created by a unit under this Act may, with the consent of the unit, obtain health benefits coverage, liability coverage, workers' compensation coverage, and property coverage under the unit's insurance policies, self-funded coverage, or coverage provided under an Interlocal Agreement with other political subdivisions. Health benefits coverage may be extended to the corporation's directors and

employees, and the dependents of such directors and employees. Workers' compensation benefits may be extended to the corporation's directors, employees, and volunteers. The liability coverage may be extended to protect the corporation and its directors and employees.

(d) Notwithstanding any law to the contrary, any corporation created by a unit under this Act may, with the consent of the unit, obtain retirement benefits under any retirement program operated or participated in by the unit. Retirement benefits may be extended to the corporation's employees.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Representative Uher moved to adopt the conference committee report on **HB 2434**.

The motion prevailed without objection.

HB 2825 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Isett submitted the following conference committee report on **HB 2825**:

Austin, Texas, May 29, 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 2825** 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.

Bernsen	Isett
Jackson	Hinojosa
Haywood	Smith
Armbrister	C. Jones
Duncan	Green
On the part of the Senate	On the part of the House

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.

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

SECTION 1. Section 46.01(3), Penal Code, is amended to read as follows:

(3) "Firearm" means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use. Firearm

does not include a firearm [~~antique or curio firearms that were manufactured prior to 1899 and~~] that may have, as an integral part, a folding knife blade or other characteristics of weapons made illegal by this chapter and that is:

(A) an antique or curio firearm manufactured before 1899; or

(B) a replica of an antique or curio firearm manufactured before 1899, but only if the replica does not use rim fire or center fire ammunition.

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

(e) The provisions of Section 46.02 prohibiting the carrying of an illegal knife do not apply to an individual carrying a bowie knife or a sword used in a historical demonstration or in a ceremony in which the knife or sword is significant to the performance of the ceremony.

SECTION 3. (a) The changes in law made by this Act to Sections 46.01 and 46.15, Penal Code, apply only to an offense committed on or after the effective date of this Act. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before 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 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 2825**.

The motion prevailed without objection.

HB 143 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Thompson submitted the following conference committee report on **HB 143**:

Austin, Texas, May 29, 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 143** 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.

West	Thompson
Moncrief	Naishtat

Cain	Chavez
Ellis	Junell
On the part of the Senate	On the part of the House

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.

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

SECTION 1. Section 32.024, Human Resources Code, is amended by adding Subsection (v) to read as follows:

(v) The department shall set a personal needs allowance of not less than $60 a month for a resident of a convalescent or nursing home or related institution licensed under Chapter 242, Health and Safety Code, personal care facility, ICF-MR facility, or other similar long-term care facility who receives medical assistance. The department may send the personal needs allowance directly to a resident who receives Supplemental Security Income (SSI) (42 U.S.C. Section 1381 et seq.). This subsection does not apply to a resident who is participating in a medical assistance waiver program administered by the department.

SECTION 2. This Act takes effect September 1, 1999, and applies only to a personal needs allowance paid on or after 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.

Representative Thompson moved to adopt the conference committee report on **HB 143**.

The motion prevailed without objection.

HB 564 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Oliveira submitted the following conference committee report on **HB 564**:

Austin, Texas, May 28, 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 564** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Shapleigh	Oliveira
Ogden	Chavez
Lucio	Cuellar

Sibley	Pickett
Truan	Gallego
On the part of the Senate	On the part of the House

HB 564, A bill to be entitled An Act relating to a border commerce coordinator designated by the governor.

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

SECTION 1. Chapter 772, Government Code, is amended by adding Section 772.010 to read as follows:

Sec. 772.010. BORDER COMMERCE COORDINATOR. (a) The governor shall designate a border commerce coordinator in the governor's office or the office of the secretary of state as determined by the governor. The coordinator shall:

(1) examine trade issues between the United States, Mexico, and Canada;

(2) act as an ombudsman for government agencies within the Texas and Mexico border region to help reduce regulations by improving communication and cooperation between federal, state, and local governments;

(3) work with federal officials to resolve transportation issues involving infrastructure, including roads and bridges, to allow for the efficient movement of goods and people across the border between Texas and Mexico;

(4) work with federal officials to create a unified federal agency process to streamline border crossing needs;

(5) work to increase funding for the North American Development Bank to assist in the financing of water and wastewater facilities; and

(6) explore the sale of excess electric power from Texas to Mexico.

(b) The governor shall appoint a border commerce coordinator to serve at the will of the governor in the governor's office or in the office of the secretary of state and may select the secretary of state as the coordinator.

SECTION 2. Funds appropriated by the 76th Legislature to the governor's office for the purpose of implementing Section 772.010, Government Code, as added by this Act, shall be transferred to the secretary of state's office if the border commerce coordinator is established in the secretary of state's office.

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

Representative Oliveira moved to adopt the conference committee report on **HB 564**.

A record vote was requested.

The motion prevailed by (Record 530): 137 Yeas, 1 Nay, 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; Corte; Counts; Crabb; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; Hodge; Homer; Hope; Howard; Hunter; Hupp; Isett; Janek; Jones, C.; Jones, J.; Junell; Keel; 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; Palmer; Pickett; Pitts; Ramsay; Rangel; Reyna, A.; Reyna, E.; Ritter; Sadler; Salinas; Seaman; Shields; Siebert; Smithee; Solis, J.; Solis, J. F.; Solomons; Staples; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Uher; Uresti; Van de Putte; Walker; West; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Nay — Hartnett.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Crownover; Jones, D.

Absent — Cook; Craddick; Flores; Hochberg; Keffer; Olivo; Puente; Smith; Turner, S.

STATEMENTS OF VOTE

When Record No. 530 was taken, I was in the house but away from my desk. I would have voted yes.

Cook

When Record No. 530 was taken, I would have voted yes.

Craddick

When Record No. 530 was taken, I was in the house but away from my desk. I would have voted yes.

Keffer

When Record No. 530 was taken, my vote failed to register. I would have voted yes.

Olivo

HB 1275 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Luna submitted the following conference committee report on **HB 1275**:

Austin, Texas, May 29, 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 1275** have met

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

Zaffirini	Luna
Barrientos	Dunnam
Carona	Hill
Cain	Sadler
West	Smith
On the part of the Senate	On the part of the House

HB 1275, A bill to be entitled An Act relating to providing a parent with a copy of a special education student's education plan translated into the parent's native language.

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

SECTION 1. Section 29.005, Education Code, is amended by adding Subsection (d) to read as follows:

(d) If the child's parent is unable to speak English, the district shall:

(1) provide the parent with a written or audiotaped copy of the child's individualized education program translated into Spanish if Spanish is the parent's native language; or

(2) if the parent's native language is a language other than Spanish, make a good faith effort to provide the parent with a written or audiotaped copy of the child's individualized education program translated into the parent's native language.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Representative Luna moved to adopt the conference committee report on **HB 1275**.

A record vote was requested.

The motion prevailed by (Record 531): 144 Yeas, 1 Nay, 1 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; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; 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; 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.

Nay — Hartnett.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Crownover; Jones, D.

Absent — Carter; Dutton.

SB 1128 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Greenberg submitted the conference committee report on **SB 1128**.

Representative Greenberg moved to adopt the conference committee report on **SB 1128**.

The motion prevailed without objection. (Deshotel recorded voting yes)

HB 1703 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Gallego submitted the following conference committee report on **HB 1703**:

Austin, Texas, May 29, 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 1703** 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.

Madla	Gallego
Nixon	Y. Davis
Lucio	Siebert
Lindsay	Alexander
On the part of the Senate	On the part of the House

HB 1703, A bill to be entitled An Act relating to the application and enforcement of traffic regulations in certain private subdivisions.

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

SECTION 1. Subchapter A, Chapter 542, Transportation Code, is amended by adding Section 542.007 to read as follows:

Sec. 542.007. TRAFFIC REGULATIONS: PRIVATE SUBDIVISION IN CERTAIN COUNTIES. (a) This section applies only to a subdivision that is located in the unincorporated area of a county with a population of 10,000 or less.

(b) On petition of 25 percent of the property owners residing in a subdivision in which the roads are privately maintained or on the request of the governing body of the entity that maintains those roads, the commissioners court of the county by order may extend any traffic rules that apply to a county road to the roads of the subdivision if the commissioners court finds the order in the interest of the county generally. The petition must specify the traffic rules that are sought to be extended. The court order may extend any or all of the requested traffic rules.

(c) As a condition of extending a traffic rule under Subsection (b), the commissioners court may require that owners of the property in the subdivision pay all or part of the cost of extending and enforcing the traffic rules in the subdivision. The commissioners court shall consult with the sheriff to determine the cost of enforcing traffic rules in the subdivision.

(d) On issuance of an order under this section, the private roads in the subdivision are considered to be county roads for purposes of the application and enforcement of the specified traffic rules. The commissioners court may place official traffic control devices on property abutting the private roads if:

(1) those devices relate to the specified traffic rule; and

(2) the consent of the owner of that property is obtained.

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 Gallego moved to adopt the conference committee report on **HB 1703**.

The motion prevailed without objection.

SB 913 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Oliveira submitted the conference committee report on **SB 913**.

Representative Oliveira moved to adopt the conference committee report on **SB 913**.

The motion prevailed without objection.

HB 744 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Eiland submitted the following conference committee report on **HB 744**:

Austin, Texas, May 29, 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 744** 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.

Bernsen	Eiland
Jackson	Averitt
Cain	Marchant
Ellis	Denny
Sibley	Solomons
On the part of the Senate	On the part of the House

HB 744, A bill to be entitled An Act relating to revolving credit accounts.

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

SECTION 1. Section 346.101(a), Finance Code, is amended to read as follows:

(a) A revolving credit account may provide for interest on an account at an annual rate[~~:~~

[~~(1)~~] that does not exceed[~~:~~

[~~(A)~~] 18 percent a year [~~on that part of the average daily balance of the account that does not exceed $1,500;~~

[~~(B) 12 percent a year on that part of the average daily balance of the account that exceeds $1,500 but does not exceed $2,500; and~~

[~~(C) 10 percent a year on that part of the average daily balance of the account that exceeds $2,500; or~~

[~~(2) that does not exceed 14.4 percent a year on the entire average daily balance of the account~~].

SECTION 2. Section 346.103, Finance Code, is amended to read as follows:

Sec. 346.103. FEES. (a) The following fees may be charged to or collected from a customer in connection with an account under this chapter:

(1) an annual fee not to exceed:

(A) $50 a year on an account with a credit limit of $5,000 or less;

(B) $75 a year on an account with a credit limit exceeding $5,000 but not exceeding $25,000; and

(C) $125 a year on an account with a credit limit exceeding $25,000;

(2) a late charge not to exceed the lesser of $15 or five percent of the payment due after the payment continues unpaid for 10 days or more after the date the payment is due, including Sundays and holidays;

(3) a cash advance charge not to exceed the greater of $2 or two percent of the cash advance;

(4) a returned check fee as provided for a loan agreement under Chapter 342 by Section 1, Chapter 617, Acts of the 68th Legislature, Regular Session, 1983 (Article 9022, Vernon's Texas Civil Statutes); and

(5) a fee for exceeding a credit limit not to exceed the greater of $15 or five percent of the amount by which the credit limit is exceeded.

(b) A creditor may not charge, contract for, or receive interest on fees authorized under this section.

(c) A customer's monthly statement must contain the following notice printed or typed in at least 10-point type that is boldfaced, capitalized, underlined, or otherwise conspicuously set out from the surrounding written material: "A LATE CHARGE OF FIVE PERCENT OF THE PAYMENT DUE OR A MAXIMUM OF $15 WILL BE ASSESSED FOR A PAYMENT MADE 10 DAYS OR MORE AFTER THE DATE PAYMENT OF THIS BILL IS DUE." [~~In connection with a revolving credit account, a person may not charge or collect from a customer a fee that is not authorized by statute.~~]

SECTION 3. Section 346.103, Finance Code, is amended to read as follows:

Sec. 346.103. FEES. (a) The following fees may be charged to or collected from a customer in connection with an account under this chapter:

(1) an annual fee not to exceed:

(A) $50 a year on an account with a credit limit of $5,000 or less;

(B) $75 a year on an account with a credit limit exceeding $5,000 but not exceeding $25,000; and

(C) $125 a year on an account with a credit limit exceeding $25,000;

(2) a late charge not to exceed the lesser of $15 or five percent of the payment due after the payment continues unpaid for 10 days or more after the date the payment is due, including Sundays and holidays;

(3) a cash advance charge not to exceed the greater of $2 or two percent of the cash advance;

(4) a returned check fee as provided for a loan agreement under Chapter 3A, Title 79, Revised Statutes, by Section 1, Chapter 617, Acts of the 68th Legislature, Regular Session, 1983 (Article 9022, Vernon's Texas Civil Statutes); and

(5) a fee for exceeding a credit limit not to exceed the greater of $15 or five percent of the amount by which the credit limit is exceeded.

(b) A creditor may not charge, contract for, or receive interest on fees authorized under this section. [~~In connection with a revolving credit account, a person may not charge or collect from a customer a fee that is not authorized by statute.~~]

SECTION 4. Section 345.157, Finance Code, is amended by amending Subsection (b) and adding Subsections (d), (e), and (f) to read as follows:

(b) The amount of a delinquency charge may not exceed $15 [~~$10~~].

(d) The holder shall remit 50 cents of each delinquency charge in excess of $10 collected under this section to the comptroller, in the time and manner established by the comptroller, for deposit to the credit of an account in the general revenue fund. One-half of the money in the account may be appropriated only to finance research conducted by the finance commission under Section 11.305 and the other one-half of the money in the account may be appropriated only to finance educational activities and counseling services under Section 394.001.

(e) A customer's monthly statement must contain the following notice printed or typed in at least 10-point type that is boldfaced, capitalized, underlined, or otherwise conspicuously set out from the surrounding written

material: "A DELINQUENCY CHARGE OF $15 MAY BE ASSESSED FOR A PAYMENT THAT IS IN DEFAULT FOR A PERIOD THAT IS LONGER THAN 21 DAYS."

(f) If the commissioner determines that a retail seller or creditor that was operating under this subchapter on September 1, 1999, and that charges a delinquency charge in excess of $10, moved its credit operations out of this state after September 1, 1999, in a manner that results in the retail seller's or creditor's retail charge agreements not being subject to this subchapter, the commissioner shall collect from the retail seller or creditor an amount equal to 25 cents for each delinquency charge in excess of $10 collected during the 12-month period preceding the date of the move.

SECTION 5. Section 303.009(e), Finance Code, is repealed.

SECTION 6. (a) Except as provided by Subsections (b) and (c) of this section, this Act takes effect September 1, 1999.

(b) Sections 2 and 5 of this Act take effect only if the Act of the 76th Legislature, Regular Session, 1999, relating to nonsubstantive additions to and corrections in enacted codes takes effect.

(c) Section 3 of this Act takes effect only if the Act of the 76th Legislature, Regular Session, 1999, relating to nonsubstantive additions to and corrections in enacted codes does not take effect.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Representative Eiland moved to adopt the conference committee report on **HB 744**.

The motion prevailed without objection.

HB 1498 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Eiland submitted the following conference committee report on **HB 1498**:

Austin, Texas, May 29, 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 1498** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Sibley	Janek
Jackson	Eiland
Madla	Siebert
Ogden	Van de Putte
	Smithee
On the part of the Senate	On the part of the House

HB 1498, A bill to be entitled An Act relating to the availability of health benefit coverage options for health maintenance organization eligible enrollees.

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

SECTION 1. Subchapter A, Chapter 26, Insurance Code, is amended by adding Article 26.09 to read as follows:

Art. 26.09. AVAILABILITY OF HEALTH BENEFIT COVERAGE OPTIONS. (a) In this article:

(1) "Non-network plan" means health benefit coverage that provides an enrollee an opportunity to obtain health care services through a health delivery system other than a health maintenance organization delivery network, as defined by Section 2, Texas Health Maintenance Organization Act (Article 20A.02, Vernon's Texas Insurance Code).

(2) "Point-of-service plan" means an arrangement under which an enrollee may choose to obtain benefits and services, or both benefits and services, through either a health maintenance organization delivery network, including a limited provider network, or through a non-network delivery system outside the health maintenance organization's health care delivery network, including a limited provider network, and that are administered through an indemnity benefit arrangement for the cost of health care services.

(3) "Preferred provider benefit plan" means an insurance policy issued and licensed under Article 3.70-3C of this code, as added by Chapter 1024, Acts of the 75th Legislature, Regular Session, 1997.

(b) If the only health benefit coverage offered under an employer's health benefit plan is a network-based delivery system of coverage offered by one or more health maintenance organizations, each health maintenance organization offering coverage under the employer's health benefit plan must offer to all eligible employees the opportunity to obtain health benefit coverage through a non-network plan at the time of enrollment and at least annually, unless all health maintenance organizations offering coverage under the employer's health benefit plan enter into an agreement designating one or more of those health maintenance organizations to offer that coverage. The coverage required under this subsection may be provided through a point-of-service contract, a preferred provider benefit plan, or any coverage arrangement that allows an enrollee to access services outside the health maintenance organization's or limited provider network's delivery network.

(c) The premium for coverage required to be offered under this article shall be based on the actuarial value of that coverage and may be different than the premium for the health maintenance organization coverage.

(d) Different cost-sharing provisions may be imposed for a point-of-service contract offered under this article and may be higher than cost-sharing provisions for in-network health maintenance organization coverage. For enrollees in limited provider networks, higher cost sharing may be imposed only when obtaining benefits or services outside the health maintenance organization delivery network.

(e) Any additional costs for the non-network plan are the responsibility of the employee who chooses the non-network plan, and the employer may impose a reasonable administrative cost for providing the non-network plan option.

(f) This article does not apply to:

(1) a small employer health benefit plan; or

(2) a group model health maintenance organization that is a state-certified health maintenance organization that provides the majority of its professional services through a single, nonprofit group medical practice that is governed by a board composed entirely of physicians and that educates medical students or resident physicians through a contract with the medical school component of a Texas state-supported college or university accredited by the Accrediting Council on Graduate Medical Education or the American Osteopathic Association.

SECTION 2. Subchapter F, Chapter 3, Insurance Code, is amended by adding Article 3.64 to read as follows:

Art. 3.64. CONTRACTS BETWEEN HEALTH MAINTENANCE ORGANIZATIONS AND INSURERS. (a) In this article:

(1) "Blended contract" means a single document, including a single contract policy, certificate, or evidence of coverage, that provides a combination of indemnity and health maintenance organization benefits.

(2) "Health maintenance organization" has the meaning assigned by Section 2, Texas Health Maintenance Organization Act (Article 20A.02, Vernon's Texas Insurance Code).

(3) "Insurance carrier" means an insurance company, group hospital service corporation, association, or organization authorized to do business in this state under this chapter or Chapter 8, 10, 11, 12, 13, 14, 15, 18, 19, 20, or 22 of this code.

(4) "Point-of-service plan" means an arrangement under which:

(A) an enrollee may choose to obtain benefits or services, or both benefits and services, through either a health maintenance organization delivery network, including a limited provider network, or through a non-network delivery system outside the health maintenance organization's health care delivery network, including a limited provider network, and that are administered through an indemnity benefit arrangement for the cost of health care services; or

(B) indemnity benefits for the cost of the health care services may be provided by an insurer or group hospital service corporation in conjunction with network benefits arranged or provided by a health maintenance organization.

(b) An insurance carrier may contract with a health maintenance organization to provide benefits under a point-of-service plan, including optional coverage for out-of-area services or out-of-network care.

(c) An insurance carrier and a health maintenance organization may offer a blended contract if indemnity benefits are combined with health maintenance organization benefits. The use of a blended contract is limited to point-of-service arrangements between an insurance carrier and a health maintenance organization.

(d) A blended contract delivered, issued, or used in this state is subject to and must be filed with the department for approval as provided by Article 3.42 of this code and Section 9(a)(5), Texas Health Maintenance Organization Act (Article 20A.09, Vernon's Texas Insurance Code).

(e) Indemnity benefits and services provided under a point-of-service plan may be limited to those services as defined by the blended contract and may be subject to different cost-sharing provisions. The cost-sharing provisions for the indemnity benefits may be higher than cost-sharing provisions for in-network health maintenance organization coverage. For enrollees in limited provider networks, higher cost sharing may be imposed only when obtaining benefits or services outside the health maintenance organization delivery network.

(f) The commissioner may adopt rules to implement this article.

SECTION 3. Section 2, Texas Health Maintenance Organization Act (Article 20A.02, Vernon's Texas Insurance Code), is amended by amending Subsection (i) and by adding Subsections (aa) and (bb) to read as follows:

(i) "Evidence of coverage" means any certificate, agreement, or contract, including a blended contract, issued to an enrollee setting out the coverage to which the enrollee is entitled.

(aa) "Blended contract" means a single document, including a single contract policy, certificate, or evidence of coverage, that provides a combination of indemnity and health maintenance organization benefits.

(bb) "Point-of-service plan" means an arrangement under which:

(1) an enrollee may choose to obtain benefits or services, or both benefits and services, through either a health maintenance organization delivery network, including a limited provider network, or through a non-network delivery system outside the health maintenance organization's health care delivery network, including a limited provider network, and that are administered through an indemnity benefit arrangement for the cost of health care services; or

(2) indemnity benefits for the cost of the health care services may be provided by an insurer or group hospital service corporation in conjunction with corresponding benefits arranged or provided by a health maintenance organization or indemnity benefits for the cost of the health care services provided by a health maintenance organization through a point-of-service rider as provided by Section (6)(a)(6)(D) of this Act in conjunction with corresponding benefits arranged or provided by a health maintenance organization.

SECTION 4. Section 6, Texas Health Maintenance Organization Act (Article 20A.06, Vernon's Texas Insurance Code), is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The powers of a health maintenance organization include, but are not limited to, the following:

(1) the purchase, lease, construction, renovation, operation, or maintenance of hospitals, medical facilities, or both, and ancillary equipment and such property as may reasonably be required for its principal office or for such other purposes as may be necessary in the transaction of the business of the health maintenance organization;

(2) the making of loans to a medical group, under an independent contract with it in furtherance of its program, or corporations under its control, for the purpose of acquiring or constructing medical facilities and hospitals, or in the furtherance of a program providing health care services to enrollees;

(3) the furnishing of or arranging for medical care services only through other health maintenance organizations or physicians or groups of physicians who have independent contracts with the health maintenance organizations; the furnishing of or arranging for the delivery of health care services only through other health maintenance organizations or providers or groups of providers who are under contract with or employed by the health maintenance organization or through other health maintenance organizations or physicians or providers who have contracted for health care services with those other health maintenance organizations or physicians or providers, except for the furnishing of or authorization for emergency services, services by referral, and services to be provided outside of the service area as approved by the commissioner; provided, however, that a health maintenance organization is not authorized to employ or contract with other health maintenance organizations or physicians or providers in any manner which is prohibited by any licensing law of this state under which such health maintenance organizations or physicians or providers are licensed; however, if a hospital, facility, agency, or supplier is certified by the Medicare program, Title XVIII of the Social Security Act (42 U.S.C. Section 1395 et seq.), or accredited by the Joint Commission on Accreditation of Healthcare Organizations or another national accrediting body, the health maintenance organization shall be required to accept such certification or accreditation;

(4) the contracting with any person for the performance on its behalf of certain functions such as marketing, enrollment, and administration;

(5) the contracting with an insurance company licensed in this state, or with a group hospital service corporation authorized to do business in the state, for the provision of insurance, reinsurance, indemnity, or reimbursement against the cost of health care and medical care services provided by the health maintenance organization;

(6) the offering of:

(A) indemnity benefits covering out-of-area emergency services; [~~and~~]

(B) indemnity benefits in addition to those relating to out-of-area and emergency services, provided through insurers or group hospital service corporations;

(C) a point-of-service plan under Article 3.64, Insurance Code; or

(D) a point-of-service rider under Subsection (c) of this section;

(7) receiving and accepting from government or private agencies payments covering all or part of the cost of the services provided or arranged for by the organization;

(8) all powers given to corporations (including professional corporations and associations), partnerships, and associations pursuant to their organizational documents which are not in conflict with provisions of this Act, or other applicable law.

(c) A health maintenance organization may offer a point-of-service rider for out-of-network coverage without obtaining a separate insurance carrier license if the expenses incurred under the point-of-service rider do not exceed

10 percent of the total medical and hospital expenses incurred for all health plan products sold. If the expenses incurred by a health maintenance organization under a point-of-service rider exceed 10 percent of the total medical and hospital expenses incurred for all health plan products sold, the health maintenance organization shall cease issuing new point-of-service riders until those expenses fall below 10 percent or until the health maintenance organization obtains an insurance carrier license under this Act. Indemnity benefits and services provided under a point-of-service rider may be limited to those services defined in the evidence of coverage and may be subject to different cost-sharing provisions. The cost-sharing provisions for indemnity benefits may be higher than the cost-sharing provisions for in-network health maintenance organization coverage. For enrollees in limited provider networks, higher cost sharing may be imposed only when obtaining benefits or services outside the health maintenance organization delivery network. A health maintenance organization that issues a point-of-service rider under this section must meet the net worth requirements promulgated by the commissioner based on the actuarial relation of the amount of insurance risk assumed through the issuance of the point-of-service rider in relation to the amount of solvency and reserve requirements already required of the health maintenance organization.

SECTION 5. This Act takes effect September 1, 1999, and applies only to an evidence of coverage for a health benefit plan that is delivered, issued for delivery, or renewed on or after January 1, 2000. An evidence of coverage for a health benefit plan that is delivered, issued for delivery, or renewed 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 this purpose.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Representative Eiland moved to adopt the conference committee report on **HB 1498**.

The motion prevailed without objection.

HB 1622 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Goodman submitted the following conference committee report on **HB 1622**:

Austin, Texas, May 27, 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 1622** have met

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

Harris	Goodman
Madla	Naishtat
Ellis	A. Reyna
	Truitt
On the part of the Senate	On the part of the House

HB 1622, A bill to be entitled An Act relating to the parent-child relationship and to suits affecting the parent-child relationship.

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

SECTION 1. Section 45.002(b), Family Code, is amended to read as follows:

(b) If the child is 10 [~~12~~] years of age or older, the child's written consent to the change of name must be attached to the petition.

SECTION 2. Section 102.003, Family Code, is amended to read as follows:

Sec. 102.003. GENERAL STANDING TO FILE SUIT. (a) An original suit may be filed at any time by:

(1) a parent of the child;

(2) the child through a representative authorized by the court;

(3) a custodian or person having the right of visitation with or access to the child appointed by an order of a court of another state or country;

(4) a guardian of the person or of the estate of the child;

(5) a governmental entity;

(6) an authorized agency;

(7) a licensed child placing agency;

(8) a man alleging himself to be the biological father of a child filing in accordance with Chapter 160, subject to the limitations of Section 160.101, but not otherwise;

(9) a person, other than a foster parent, who has had actual care, control, and possession of the child for at least [~~not less than~~] six months ending not more than 90 days preceding the date of the filing of the petition;

(10) a person designated as the managing conservator in a revoked or unrevoked affidavit of relinquishment under Chapter 161 or to whom consent to adoption has been given in writing under Chapter 162;

(11) a person with whom the child and the child's guardian, managing conservator, or parent have resided for at least [~~not less than~~] six months ending not more than 90 days preceding the date of the filing of the petition if the child's guardian, managing conservator, or parent is deceased at the time of the filing of the petition; or

(12) a person who is the foster parent of a child placed by the Department of Protective and Regulatory Services in the person's home for at least 12 [~~a period of not less than 18~~] months ending not more than 90 days preceding the date of the filing of the petition.

(b) In computing the time necessary for standing under Subsections (a)(9), (11), and (12), the court may not require that the time be continuous and uninterrupted but shall consider the child's principal residence during the relevant time preceding the date of commencement of the suit.

SECTION 3. Sections 105.001(b) and (d), Family Code, are amended to read as follows:

(b) Except as provided by Subsection (c), temporary restraining orders and temporary injunctions under this section shall be granted without the necessity of an affidavit or verified pleading stating specific facts showing that immediate and irreparable injury, loss, or damage will result before notice can be served and a hearing can be held. Except as provided by Subsection (h), an order may not be rendered under Subsection (a)(1), (2), or (5) except after notice and a hearing. A temporary restraining order or temporary injunction granted under this section need not:

(1) define the injury or state why it is irreparable; [~~or~~]

(2) state why the order was granted without notice; or

(3) include an order setting the cause for trial on the merits with respect to the ultimate relief requested.

(d) In a suit, the court may dispense with the necessity of[~~:~~

[~~(1)~~] a bond in connection with temporary orders on [~~in~~] behalf of the child[~~; and~~

[~~(2) setting the cause for trial on the merits with respect to the ultimate relief requested~~].

SECTION 4. Section 107.0135, Family Code, is amended to read as follows:

Sec. 107.0135. APPOINTMENT OF ATTORNEY AD LITEM NOT REQUIRED; CERTAIN CASES. A court is not required [~~under this section~~] to appoint an attorney ad litem in a proceeding in which:

(1) a suit for the dissolution of a marriage is uncontested; or

(2) the issues of possession of and access to a child are agreed to by both parents.

SECTION 5. Section 107.014(a), Family Code, is amended to read as follows:

(a) An attorney ad litem appointed under this subchapter to represent a child:

(1) shall investigate to the extent the attorney ad litem considers appropriate to determine the facts of the case;

(2) shall obtain and review copies of all of the child's relevant medical, psychological, and school records; [~~and~~]

(3) may call, examine, or cross-examine witnesses; and

(4) shall become familiar with the American Bar Association's standards of practice for lawyers who represent children in abuse and neglect cases.

SECTION 6. Section 107.015, Family Code, is amended to read as follows:

Sec. 107.015. ATTORNEY AD LITEM FEES. (a) An attorney appointed to represent a child or parent as authorized by this subchapter is entitled to [~~a~~] reasonable fees and expenses [~~fee~~] in the amount set by the court to be paid by the parents of the child unless the parents are indigent.

(b) If the court or associate judge determines that one or more of the parties [~~or litigants~~] are able to defray the costs of an attorney ad litem's fees and expenses [~~compensation~~] as determined by the reasonable and customary

fees for similar services in the county of jurisdiction, the fees and expenses [~~costs~~] may be ordered paid by one [~~either~~] or more of those [~~both~~] parties, or the court or associate judge may order one [~~either~~] or more of those [~~both~~] parties, prior to final hearing, to pay the sums into the registry of the court or into an account authorized by the court for the use and benefit of the attorney ad litem on order of the court. The sums may be taxed as costs to be assessed against one or more of the parties.

(c) If indigency of the parents is shown, an attorney appointed to represent a child or parent in a suit to terminate the parent-child relationship shall be paid from the general funds of the county according to the fee schedule that applies to an attorney appointed to represent a child in a suit under Title 3 as provided by Chapter 51. The court may not award attorney ad litem fees under this chapter against the state, a state agency, or a political subdivision of the state except as provided by this subsection.

SECTION 7. Section 107.051(c), Family Code, is amended to read as follows:

(c) In a suit in which adoption is requested or possession of or access to the child is an issue and in which the Department of Protective and Regulatory Services is not a party [~~or has no interest~~], the court shall appoint a private agency or person to conduct the social study.

SECTION 8. Section 108.001(c), Family Code, is amended to read as follows:

(c) Except as otherwise provided by law, [~~All~~] the records required under this section to be maintained by the bureau of vital statistics [~~and the records of a child-placing agency that has ceased operations~~] are confidential [~~and no person is entitled to access to or information from these records except for good cause on an order of the court that rendered the order~~].

SECTION 9. Section 108.003, Family Code, is amended to read as follows:

Sec. 108.003. TRANSMITTAL OF INFORMATION REGARDING ADOPTION. (a) The clerk of a court that renders a decree of adoption shall, not later than the 10th day of the first month after the month in which the adoption is rendered, transmit to the central registry of the bureau of vital statistics certified report of adoption that includes:

(1) the name of the adopted child after adoption as shown in the adoption order;

(2) the birth date of the adopted child;

(3) the docket number of the adoption suit;

(4) the identity of the court rendering the adoption;

(5) the date of the adoption order;

(6) the name and address of each parent, guardian, managing conservator, or other person whose consent to adoption was required or waived under Chapter 162 [~~159~~], or whose parental rights were terminated in the adoption suit;

(7) the identity of the licensed child placing agency, if any, through which the adopted child was placed for adoption; and

(8) the identity, address, and telephone number of the registry through which the adopted child may register as an adoptee.

(b) Except as otherwise provided by law, for good cause shown, or on an order of the court that granted the adoption or terminated the proceedings under Section 155.001, the records concerning a child maintained by the district clerk after rendition of a decree of adoption, the records of a child-placing agency that has ceased operations, and the records required under this section to be maintained by the bureau of vital statistics are confidential, and no person is entitled to access to or information from these records.

SECTION 10. Section 108.005, Family Code, is amended to read as follows:

Sec. 108.005. ADOPTION RECORDS RECEIVED BY BUREAU OF VITAL STATISTICS. (a) When the bureau of vital statistics receives a record [~~records~~] from the district clerk showing that continuing, exclusive jurisdiction of a child has been lost due to the adoption of the child, the bureau shall close the records concerning that child.

(b) An [~~Except for statistical purposes, the bureau may not disclose any information concerning the prior proceedings affecting the child. Except as provided in Chapter 162, any subsequent~~] inquiry concerning a [~~the~~] child who has been adopted shall be handled as though the child had not [~~been~~] previously been the subject of a suit affecting the parent-child relationship. [~~The bureau shall provide to the Department of Protective and Regulatory Services registry information as necessary for the department to comply with federal law or regulations regarding the compilation or reporting of adoption information to federal officials and other information as necessary for the department to administer the central registry as provided in Subchapter E, Chapter 162.~~

[~~(b) On the receipt of additional records concerning a child who has been the subject of a suit affecting the parent-child relationship in which the records have been closed, a new file shall be made and maintained.~~]

SECTION 11. Chapter 108, Family Code, is amended by adding Section 108.110 to read as follows:

Sec. 108.110. RELEASE OF INFORMATION BY BUREAU OF VITAL STATISTICS. (a) The bureau of vital statistics shall provide to the Department of Protective and Regulatory Services:

(1) adoption information as necessary for the department to comply with federal law or regulations regarding the compilation or reporting of adoption information to federal officials; and

(2) other information as necessary for the department to administer its duties.

(b) The bureau may release otherwise confidential information from the bureau's central record files to another governmental entity that has a specific need for the information and maintains appropriate safeguards to prevent further dissemination of the information.

SECTION 12. Section 153.008, Family Code, is amended to read as follows:

Sec. 153.008. CHILD'S CHOICE OF MANAGING CONSERVATOR. If the child is 10 [~~12~~] years of age or older, the child may, by writing filed with the court, choose the managing conservator, subject to the approval of the court.

SECTION 13. Section 153.434, Family Code, is amended to read as follows:

Sec. 153.434. LIMITATION ON RIGHT TO REQUEST ACCESS. A biological or adoptive grandparent may not request possession of or access to a grandchild if:

(1) each of the biological parents of the grandchild has:

(A) died;

(B) had the person's parental rights terminated; or

(C) [~~the grandparent is a parent of a person whose parental rights with the child have been terminated by court order or by death; or~~

[~~(2) the grandparent is a parent of a person who has~~] executed an affidavit of waiver of interest in child or an affidavit of relinquishment of parental rights under Chapter 161 and the affidavit designates an authorized agency, licensed child-placing agency, or person other than the child's stepparent as the managing conservator of the child; and

(2) [~~(3) the other biological parent has died, has executed an affidavit of waiver of interest in child or an affidavit of relinquishment of parental rights under Chapter 161, or has had that parent's parental rights terminated and~~] the grandchild has been adopted, or is the subject of a pending suit for adoption, by a person other than the child's stepparent.

SECTION 14. Section 155.204, Family Code, is amended by amending Subsection (a) and adding Subsection (f) to read as follows:

(a) Except as provided by Section 262.203, a [~~A~~] motion to transfer by a petitioner or movant is timely if it is made at the time the initial pleadings are filed. A motion to transfer by another party is timely if it is made on or before the first Monday after the 20th day after the date of service of citation or notice of the suit or before the commencement of the hearing, whichever is sooner. If a timely motion to transfer has been filed and no controverting affidavit is filed within the period allowed for its filing, the proceeding shall be transferred promptly without a hearing to the proper court.

(f) If a transfer order has been rendered by a court exercising jurisdiction under Chapter 262, a party may file the transfer order with the clerk of the court of continuing, exclusive jurisdiction. On receipt and without a hearing, the clerk of the court of continuing, exclusive jurisdiction shall transfer the files as provided by this subchapter.

SECTION 15. Section 156.006(b), Family Code, is amended to read as follows:

(b) While a suit for modification is pending, the court may not render a temporary order that has the effect of changing the designation of a sole or joint managing conservator appointed in a final order unless:

(1) the order is necessary because the child's present living environment may endanger the child's physical health or significantly impair the child's emotional development;

(2) the child's managing conservator has voluntarily relinquished the actual care, control, and possession of the child for more than six months and the temporary order is in the best interest of the child; or

(3) the child is 10 [~~12~~] years of age or older and has filed with the court in writing the name of the person who is the child's choice for

managing conservator and the temporary order naming that person as managing conservator is in the best interest of the child.

SECTION 16. Section 156.101(b), Family Code, is amended to read as follows:

(b) The court may modify an order that designates a sole managing conservator of a child 10 [~~12~~] years of age or older if:

(1) the child has filed with the court in writing the name of the person who is the child's choice for managing conservator; and

(2) the court finds that the appointment of the named person is in the best interest of the child.

SECTION 17. (a) Section 156.301, Family Code, is amended to read as follows:

Sec. 156.301. GROUNDS FOR MODIFICATION OF POSSESSION AND ACCESS. The court may modify an order that sets the terms and conditions for possession of or access to a child or that prescribes the relative rights, privileges, duties, and powers of conservators if:

(1) the circumstances of the child or a person affected by the order have materially and substantially changed since the date of the rendition of the order;

(2) the order has become unworkable or inappropriate under existing circumstances;

(3) the notice of change of a conservator's residence required by Chapter 105 [~~153~~] was not given or there was a change in a conservator's residence to a place outside this state; [~~or~~]

(4) a conservator has repeatedly failed to give notice of an inability to exercise possessory rights; or

(5) a conservator of the child has had a significant history of alcohol or drug abuse since the date of the rendition of the order.

(b) The change in law made by this section applies only to a motion to modify an order or portion of a decree providing for possession of or access to a child on or after the effective date of this Act. A motion filed before the effective date of this Act is governed by the law in effect on the date the motion was filed, and the former law is continued in effect for that purpose. The enactment of this section does not by itself constitute a material and substantial change of circumstances sufficient to warrant modification of a court order or portion of a decree that provides for possession of or access to a child rendered before the effective date of this Act.

SECTION 18. Section 161.001, Family Code, is amended to read as follows:

Sec. 161.001. INVOLUNTARY TERMINATION OF PARENT-CHILD RELATIONSHIP. The court may order termination of the parent-child relationship if the court finds by clear and convincing evidence:

(1) that the parent has:

(A) voluntarily left the child alone or in the possession of another not the parent and expressed an intent not to return;

(B) voluntarily left the child alone or in the possession of another not the parent without expressing an intent to return, without

providing for the adequate support of the child, and remained away for a period of at least three months;

(C) voluntarily left the child alone or in the possession of another without providing adequate support of the child and remained away for a period of at least six months;

(D) knowingly placed or knowingly allowed the child to remain in conditions or surroundings which endanger the physical or emotional well-being of the child;

(E) engaged in conduct or knowingly placed the child with persons who engaged in conduct which endangers the physical or emotional well-being of the child;

(F) failed to support the child in accordance with the parent's ability during a period of one year ending within six months of the date of the filing of the petition;

(G) abandoned the child without identifying the child or furnishing means of identification, and the child's identity cannot be ascertained by the exercise of reasonable diligence;

(H) voluntarily, and with knowledge of the pregnancy, abandoned the mother of the child beginning at a time during her pregnancy with the child and continuing through the birth, failed to provide adequate support or medical care for the mother during the period of abandonment before the birth of the child, and remained apart from the child or failed to support the child since the birth;

(I) contumaciously refused to submit to a reasonable and lawful order of a court under Subchapter D, Chapter 261 [~~264~~];

(J) been the major cause of:

(i) the failure of the child to be enrolled in school as required by the Education Code; or

(ii) the child's absence from the child's home without the consent of the parents or guardian for a substantial length of time or without the intent to return;

(K) executed before or after the suit is filed an unrevoked or irrevocable affidavit of relinquishment of parental rights as provided by this chapter;

(L) been convicted or has been placed on community supervision, including deferred adjudication community supervision, for being criminally responsible for the death or serious injury of a child under the following sections of the Penal Code or adjudicated under Title 3 for conduct that caused the death or serious injury of a child and that would constitute a violation of one of the following Penal Code sections:

(i) Section 19.02 (murder);

(ii) Section 19.03 (capital murder);

(iii) Section 19.04 (manslaughter);

(iv) Section 21.11 (indecency with a child);

(v) [~~(iv)~~] Section 22.01 (assault);

(vi) [~~(v)~~] Section 22.011 (sexual assault);

(vii) [~~(vi)~~] Section 22.02 (aggravated assault);

(viii) [~~(vii)~~] Section 22.021 (aggravated sexual assault);

(ix) [~~(viii)~~] Section 22.04 (injury to a child, elderly individual, or disabled individual);

(x) [~~(ix)~~] Section 22.041 (abandoning or endangering child);

(xi) [~~(x)~~] Section 25.02 (prohibited sexual conduct);

(xii) [~~(xi)~~] Section 43.25 (sexual performance by a child); and

(xiii) [~~(xii)~~] Section 43.26 (possession or promotion of child pornography);

(M) had his or her parent-child relationship terminated with respect to another child based on a finding that the parent's conduct was in violation of Paragraph (D) or (E) or substantially equivalent provisions of the law of another state;

(N) constructively abandoned the child who has been in the permanent or temporary managing conservatorship of the Department of Protective and Regulatory Services or an authorized agency for not less than six months, and:

(i) the department or authorized agency has made reasonable efforts to return the child to the parent;

(ii) the parent has not regularly visited or maintained significant contact with the child; and

(iii) the parent has demonstrated an inability to provide the child with a safe environment;

(O) failed to comply with the provisions of a court order that specifically established the actions necessary for the parent to obtain the return of the child who has been in the permanent or temporary managing conservatorship of the Department of Protective and Regulatory Services for not less than nine months as a result of the child's removal from the parent under Chapter 262 for the abuse or neglect of the child;

(P) used a controlled substance, as defined by Chapter 481, Health and Safety Code,[~~:~~

[~~(i)~~] in a manner that endangered the health or safety of the child, and:

(i) failed to complete a court-ordered substance abuse treatment program; or

(ii) [~~repeatedly,~~] after completion of a court-ordered substance abuse treatment program, continued to abuse a controlled substance [~~in a manner that endangered the health or safety of the child~~];

(Q) knowingly engaged in criminal conduct that has resulted [~~results~~] in the parent's:

(i) conviction of an offense; and

(ii) confinement or imprisonment and inability to care for the child for not less than two years from the date of filing the petition; or

(R) been the cause of the child being born addicted to alcohol or a controlled substance, other than a controlled substance legally obtained by prescription, as defined by Section 261.001(7); and

(2) that termination is in the best interest of the child.

SECTION 19. Sections 161.211(a) and (b), Family Code, as amended by Section 1, Chapter 600, Acts of the 75th Legislature, Regular Session, 1997, and Section 2, Chapter 601, Acts of the 75th Legislature, Regular Session, 1997, are reenacted to read as follows:

(a) Notwithstanding Rule 329, Texas Rules of Civil Procedure, the validity of an order terminating the parental rights of a person who has been personally served or who has executed an affidavit of relinquishment of parental rights or an affidavit of waiver of interest in a child or whose rights have been terminated under Section 161.002(b) is not subject to collateral or direct attack after the sixth month after the date the order was signed.

(b) Notwithstanding Rule 329, Texas Rules of Civil Procedure, the validity of an order terminating the parental rights of a person who is served by citation by publication is not subject to collateral or direct attack after the sixth month after the date the order was signed.

SECTION 20. Section 162.008(b), Family Code, is amended to read as follows:

(b) A petition for adoption may not be granted until the following documents have been filed:

(1) a copy of the health, social, educational, and genetic history report signed by the child's adoptive parents; and

(2) if the report is required to be submitted to the bureau of vital statistics under [~~department by~~] Section 162.006(e), a certificate from the bureau [~~department~~] acknowledging receipt of the report.

SECTION 21. Section 261.101(d), Family Code, is amended to read as follows:

(d) Unless waived in writing by the person making the report, the [~~The~~] identity of an individual making a report under this chapter is confidential and may be disclosed only:

(1) as provided by [~~on the order of a court rendered under~~] Section 261.201; or

(2) to a law enforcement officer for the purposes of conducting a criminal investigation of the report.

SECTION 22. Section 261.201, Family Code, is amended by amending Subsections (b) and (c) and adding Subsection (h) to read as follows:

(b) A court may order the disclosure of information that is confidential under this section if:

(1) a motion has been filed with the court requesting the release of the information;

(2) a notice of hearing has been served on the investigating agency and all other interested parties; and

(3) after hearing and an in camera review of the requested information, the court determines that the disclosure of the requested information is:

(A) essential to the administration of justice; and

(B) not likely to endanger the life or safety of:

(i) a child who is the subject of the report of alleged or suspected abuse or neglect;

(ii) a person who makes a report of alleged or suspected abuse or neglect; or

(iii) any other person who participates in an investigation of reported abuse or neglect or who provides care for the child.

(c) In addition to Subsection (b), a court, on its own motion, may order disclosure of information that is confidential under this section if:

(1) the order is rendered at a hearing for which all parties have been given notice;

(2) the court finds that disclosure of the information is:

(A) essential to the administration of justice; and

(B) not likely to endanger the life or safety of:

(i) a child who is the subject of the report of alleged or suspected abuse or neglect;

(ii) a person who makes a report of alleged or suspected abuse or neglect; or

(iii) any other person who participates in an investigation of reported abuse or neglect or who provides care for the child; and

(3) the order is reduced to writing or made on the record in open court.

(h) This section does not apply to an investigation of child abuse or neglect in a home or facility regulated under Chapter 42, Human Resources Code.

SECTION 23. Section 261.301(b), Family Code, is amended to read as follows:

(b) A state agency shall investigate a report that alleges abuse or neglect occurred in a facility operated, licensed, certified, or registered by that agency as provided by Subchapter E. In conducting an investigation for a facility operated, licensed, certified, registered, or listed by the department, the department shall perform the investigation as provided by:

(1) Subchapter E; and

(2) the Human Resources Code.

SECTION 24. Section 261.303, Family Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) If a parent or person responsible for the child's care does not consent to release of the child's prior medical, psychological, or psychiatric records or to a medical, psychological, or psychiatric examination of the child that is requested by the department or designated agency, the court having family law jurisdiction shall, for good cause shown, order the records to be released or the examination to be made at the times and places designated by the court.

(d) A person, including a medical facility, that makes a report under Subchapter B shall release to the department or designated agency, as part of the required report under Section 261.103, records that directly relate to the suspected abuse or neglect without requiring parental consent or a court order.

SECTION 25. Sections 261.305(a)-(c), Family Code, are amended to read as follows:

(a) An investigation may include an inquiry into the possibility that [~~the child,~~] a parent[~~,~~] or a person responsible for the care of a [~~the~~] child who is

the subject of a report under Subchapter B has a history of medical or mental illness.

(b) If the parent or person [~~responsible for the care of the child~~] does not consent to an examination or allow the department or designated agency to have access to medical or mental health records requested by the department or agency, the court having family law jurisdiction, for good cause shown, shall order the examination to be made or that the department or agency be permitted to have access to the records under terms and conditions prescribed by the court.

(c) If the court determines that the parent or person [~~responsible for the care of the child~~] is indigent, the court shall appoint an attorney to represent the parent or person [~~responsible for the child~~] at the hearing [~~to obtain medical or mental health records~~]. The fees for the appointed attorney shall be paid as provided by Chapter 107 [~~the department or designated agency~~].

SECTION 26. Section 261.405, Family Code, as amended by Chapters 162 and 1374, Acts of the 75th Legislature, Regular Session, 1997, is reenacted to read as follows:

Sec. 261.405. INVESTIGATIONS IN PRE-ADJUDICATION AND POST-ADJUDICATION SECURE JUVENILE FACILITIES. A report of alleged abuse or neglect in a public or private juvenile pre-adjudication secure detention facility, including hold-over facilities, or public or private juvenile post-adjudication secure correctional facility, except for a facility operated solely for children committed to the Texas Youth Commission, shall be made to a local law enforcement agency for investigation. The local law enforcement agency shall immediately notify the Texas Juvenile Probation Commission of any report the agency receives.

SECTION 27. Section 261.406(b), Family Code, is amended to read as follows:

(b) The department shall send a written report of the department's investigation, as appropriate, to the Texas Education Agency, the agency responsible for teacher certification, the local school board or the school's [~~local~~] governing body, and the school principal or director, unless the principal or director is alleged to have committed the abuse or neglect, for appropriate action. On request, the department shall provide a copy of the report of investigation to the parent, managing conservator, or legal guardian of a child who is the subject of the investigation and to the person alleged to have committed the abuse or neglect. The report of investigation shall be edited to protect the identity of the persons who made the report of abuse or neglect [~~or provided information for the report of abuse or neglect~~]. Section 261.201(b) applies to the release of confidential information relating to the investigation of a report of abuse or neglect under this section and to the identity of the person who made the report of abuse or neglect.

SECTION 28. The heading of Chapter 262, Family Code, is amended to read as follows:

CHAPTER 262. [~~EMERGENCY~~] PROCEDURES IN SUIT BY GOVERNMENTAL ENTITY TO PROTECT HEALTH AND SAFETY OF CHILD

SECTION 29. Section 262.001, Family Code, is amended to read as follows:

Sec. 262.001. AUTHORIZED ACTIONS BY GOVERNMENTAL ENTITY. (a) A governmental entity with an interest in the child may file a suit affecting the parent-child relationship requesting an [~~emergency~~] order or take possession of a child without a court order as provided by this chapter.

(b) In determining the reasonable efforts that are required to be made with respect to preventing or eliminating the need to remove a child from the child's home or to make it possible to return a child to the child's home, the child's health and safety is the paramount concern.

SECTION 30. Section 262.002, Family Code, is amended to read as follows:

Sec. 262.002. JURISDICTION [~~FOR EMERGENCY PROCEDURES~~]. A suit brought by a governmental entity requesting an [~~emergency~~] order under this chapter may be filed in a court with jurisdiction to hear the suit in the county in which the child is found.

SECTION 31. Section 262.007(c), Family Code, is amended to read as follows:

(c) If a person entitled to possession of the child is not immediately available to take possession of the child, the law enforcement officer shall deliver the child to the Department of Protective and Regulatory Services. Until a person entitled to possession of the child takes possession of the child, the department may, without a court order, retain possession of the child not longer than five [~~14~~] days after the date the child is delivered to the department. While the department retains possession of a child under this subsection, the department may place the child in foster home care. If a parent or other person entitled to possession of the child does not take possession of the child before the sixth [~~15th~~] day after the date the child is delivered to the department, the department shall proceed under this chapter as if the law enforcement officer took possession of the child under Section 262.104.

SECTION 32. The heading for Subchapter B, Chapter 262, Family Code, is amended to read as follows:

SUBCHAPTER B. TAKING POSSESSION OF CHILD [~~IN EMERGENCY~~]

SECTION 33. Section 262.101, Family Code, is amended to read as follows:

Sec. 262.101. FILING PETITION BEFORE TAKING POSSESSION OF CHILD. An original suit [~~A petition or affidavit~~] filed by a governmental entity that requests [~~requesting~~] permission to take possession of a child without prior notice and a hearing must [~~in an emergency shall~~] be supported by an affidavit sworn to by a person with personal knowledge and stating [~~shall state~~] facts sufficient to satisfy a person of ordinary prudence and caution that:

(1) there is an immediate danger to the physical health or safety of the child or the child has been a victim of neglect or sexual abuse and that continuation in the home would be contrary to the child's welfare; and

(2) there is no time, consistent with the physical health or safety of the child, for an adversary hearing or to make reasonable efforts to prevent or eliminate the need for the removal of the child.

SECTION 34. Section 262.102(a), Family Code, is amended to read as follows:

(a) Before a court may, without prior notice and a hearing, issue a temporary restraining order or attachment of a child in a suit [~~requesting an emergency order~~] brought by a governmental entity, the court must find that:

(1) there is an immediate danger to the physical health or safety of the child or the child has been a victim of neglect or sexual abuse and that continuation in the home would be contrary to the child's welfare; and

(2) there is no time, consistent with the physical health or safety of the child and the nature of the emergency, to hold an adversary hearing or to make reasonable efforts to prevent or eliminate the need for removal of the child.

SECTION 35. Section 262.106, Family Code, is amended by adding Subsection (d) to read as follows:

(d) For the purpose of determining under Subsection (a) the first working day after the date the child is taken into possession, the child is considered to have been taken into possession by the Department of Protective and Regulatory Services on the expiration of the five-day period permitted under Section 262.007(c) or 262.110(b), as appropriate.

SECTION 36. Section 262.109(d), Family Code, is amended to read as follows:

(d) The written notice may be waived by the court at the initial hearing:

(1) on a showing that the parents, conservators, or other custodians of the child could not be located; or

(2) for other good cause.

SECTION 37. Section 262.110, Family Code, is amended to read as follows:

Sec. 262.110. TAKING POSSESSION OF CHILD IN EMERGENCY WITH INTENT TO RETURN HOME. (a) An authorized representative of the Department of Protective and Regulatory Services, a law enforcement officer, or a juvenile probation officer may take temporary possession of a child without a court order on discovery of a child in a situation of danger to the child's physical health or safety when the sole purpose is to deliver the child without unnecessary delay to the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian who is presently entitled to possession of the child.

(b) Until a parent or other person entitled to possession of the child takes possession of the child, the department may retain possession of the child without a court order for not more than five days. On the expiration of the fifth day, if a parent or other person entitled to possession does not take possession of the child, the department shall take action under this chapter as if the department took possession of the child under Section 262.104.

SECTION 38. Subchapter B, Chapter 262, Family Code, is amended by adding Section 262.113 to read as follows:

Sec. 262.113. FILING SUIT WITHOUT TAKING POSSESSION OF CHILD. An original suit filed by a governmental entity that requests to take possession of a child after notice and a hearing must be supported by an affidavit sworn to by a person with personal knowledge and stating facts sufficient to satisfy a person of ordinary prudence and caution that:

(1) reasonable efforts have been made to prevent or eliminate the need to remove the child from the child's home; and

(2) allowing the child to remain in the home would be contrary to the child's welfare.

SECTION 39. Section 262.201, Family Code, is amended by adding Subsection (g) to read as follows:

(g) For the purpose of determining under Subsection (a) the 14th day after the date the child is taken into possession, a child is considered to have been taken into possession by the department on the expiration of the five-day period permitted under Section 262.007(c) or 262.110(b), as appropriate.

SECTION 40. Section 262.2015, Family Code, is amended to read as follows:

Sec. 262.2015. AGGRAVATED CIRCUMSTANCES [~~ACCELERATED TRIAL ON THE MERITS~~]. (a) The court may waive the requirement of a service plan and the requirement to make reasonable efforts to return the child to a parent and may accelerate the trial schedule to result in a final order for a child under the care of the department at an earlier date than provided by Subchapter D, Chapter 263, if the court finds that all reasonable efforts have been made to return the child to a parent or that the parent has subjected the child to aggravated circumstances.

(b) The court may find under Subsection (a) that a parent has subjected the child to aggravated circumstances if:

(1) the parent abandoned the child without identification or a means for identifying the child [~~orders at the conclusion of the full adversary hearing that the child may not be placed in the child's home~~];

(2) [~~finds that~~] the child is a victim of serious bodily injury or sexual abuse inflicted by the parent or by another person with the parent's consent; [~~and~~]

(3) the parent [~~finds that there is probable cause to believe that a party to the suit~~] has engaged in conduct against the child or against another child of the parent that would constitute an offense under the following provisions of the Penal Code:

(A) Section 19.02 (murder);

(B) Section 19.03 (capital murder);

(C) Section 19.04 (manslaughter);

(D) Section 21.11 (indecency with a child);

(E) [~~(B)~~] Section 22.011 (sexual assault);

(F) [~~(C)~~] Section 22.02 (aggravated assault);

(G) [~~(D)~~] Section 22.021 (aggravated sexual assault);

(H) [~~(E)~~] Section 22.04 (injury to a child, elderly individual, or disabled individual);

(I) [~~(F)~~] Section 22.041 (abandoning or endangering child);

(J) [~~(G)~~] Section 25.02 (prohibited sexual conduct);

(K) [~~(H)~~] Section 43.25 (sexual performance by a child); or

(L) [~~(I)~~] Section 43.26 (possession or promotion of child pornography);

(4) the parent voluntarily left the child alone or in the possession of another person not the parent of the child for at least six months without expressing an intent to return and without providing adequate support for the child; or

(5) the parent's parental rights with regard to another child have been involuntarily terminated based on a finding that the parent's conduct violated Section 161.001(1)(D) or (E) or a substantially equivalent provision of another state's law.

(c) On finding that reasonable efforts to prevent or eliminate the need to remove the child or to make it possible for the child to safely return to the child's home are not required, the court shall at any time before the 30th day after the date of the finding, conduct an initial permanency hearing under Subchapter D, Chapter 263. Separate notice of the permanency plan is not required but may be given with a notice of a hearing under this section.

(d) The Department of Protective and Regulatory Services shall make reasonable efforts to finalize the permanent placement of a child for whom the court has made the finding described by Subsection (c). The court shall set the suit for trial on the merits as required by Subchapter D, Chapter 263, in order to facilitate final placement of the child.

SECTION 41. Section 262.203, Family Code, is amended to read as follows:

Sec. 262.203. TRANSFER OF SUIT. (a) On the motion of a party or the court's own motion, if applicable, the court that rendered the temporary order shall [~~transfer the suit~~] in accordance with procedures provided by Chapter 155:

(1) transfer the suit to the court of continuing, exclusive jurisdiction, if any; [~~or~~]

(2) if grounds exist for mandatory transfer from the court of continuing, exclusive jurisdiction under Section 155.201, order transfer of the suit from that court; or

(3) if grounds exist for transfer based on improper venue, order transfer of the suit [~~if there is no court of continuing jurisdiction,~~] to the court having venue of the suit [~~affecting the parent-child relationship~~] under Chapter 103.

(b) Notwithstanding Section 155.204, a motion to transfer relating to [~~under this section is timely if made at any time after the date~~] a suit [~~was~~] filed under this chapter may be filed separately from the petition and is timely if filed while the case is pending.

(c) Notwithstanding Sections 6.407 and 103.002, a court exercising jurisdiction under this chapter is not required to transfer the suit to a court in which a parent has filed a suit for dissolution of marriage before a final order for the protection of the child has been rendered under Subchapter E, Chapter 263.

SECTION 42. Subchapter C, Chapter 262, Family Code, is amended by adding Section 262.205 to read as follows:

Sec. 262.205. HEARING WHEN CHILD NOT IN POSSESSION OF GOVERNMENTAL ENTITY. (a) In a suit requesting possession of a child after notice and hearing, the court may render a temporary restraining order as provided by Section 105.001. The suit shall be promptly set for hearing.

(b) After the hearing, the court may grant the request to remove the child from the parent, managing conservator, possessory conservator, guardian, caretaker, or custodian entitled to possession of the child if the court finds sufficient evidence to satisfy a person of ordinary prudence and caution that:

(1) reasonable efforts have been made to prevent or eliminate the need to remove the child from the child's home; and

(2) allowing the child to remain in the home would be contrary to the child's welfare.

(c) If the court orders removal of the child from the child's home, the court shall:

(1) issue an appropriate temporary order under Chapter 105; and

(2) inform each parent in open court that parental and custodial rights and duties may be subject to restriction or termination unless the parent is willing and able to provide a safe environment for the child.

(d) If citation by publication is required for a parent or alleged or probable father in an action under this chapter because the location of the person is unknown, the court may render a temporary order without regard to whether notice of the citation has been published.

(e) Unless it is not in the best interest of the child, the court shall place a child who has been removed under this section with:

(1) the child's noncustodial parent; or

(2) another relative of the child if placement with the noncustodial parent is inappropriate.

(f) If the court finds that the child requires protection from family violence by a member of the child's family or household, the court shall render a protective order for the child under Title 4.

SECTION 43. Section 263.101, Family Code, is amended to read as follows:

Sec. 263.101. DEPARTMENT TO FILE SERVICE PLAN. Not later than the 45th day after the date the court renders a temporary order appointing the department as temporary managing conservator of a child [~~of the conclusion of a full adversary hearing~~] under Chapter 262, the department or other agency appointed as the managing conservator of a child shall file a service plan.

SECTION 44. Section 263.105(a), Family Code, is amended to read as follows:

(a) The service plan currently in effect shall be filed with the court [~~along with the next required status report~~].

SECTION 45. Section 263.201, Family Code, is amended to read as follows:

Sec. 263.201. STATUS HEARING; TIME. (a) Not later than the 60th day after the date the court renders a temporary order appointing the department as temporary managing conservator of a child, the court shall hold a status hearing to review the child's status and the service [~~permanency~~] plan developed for the child.

(b) A status hearing is not required if the court holds an initial permanency hearing under Section 262.2015 before the date a status hearing is required by this section.

SECTION 46. Section 263.202, Family Code, is amended by adding Subsection (d) to read as follows:

(d) If a service plan with respect to a parent has not been filed with the court, the court shall consider whether to waive the service plan under Section 262.2015.

SECTION 47. Section 263.306, Family Code, is amended to read as follows:

Sec. 263.306. PERMANENCY HEARINGS: PROCEDURE. (a) At each permanency hearing the court shall:

(1) identify all persons or parties present at the hearing or those given notice but failing to appear;

(2) review the efforts of the department or another agency in:

(A) attempting to locate all necessary persons;

(B) requesting service of citation; and

(C) obtaining the assistance of a parent in providing information necessary to locate an absent parent;

(3) return the child to the parent or parents if the child's parent or parents are willing and able to provide the child with a safe environment and the return of the child is in the child's best interest;

(4) place the child with a person or entity, other than a parent, entitled to service under Chapter 102 if the person or entity is willing and able to provide the child with a safe environment and the placement [~~return~~] of the child is in the child's best interest;

(5) evaluate the department's efforts to identify relatives who could provide the child with a safe environment, if the child is not returned to a parent or another person or entity entitled to service under Chapter 102;

(6) evaluate the parties' compliance with temporary orders and the service plan;

(7) determine whether:

(A) the child continues to need substitute care;

(B) the child's current placement is appropriate for meeting the child's needs; and

(C) other plans or services are needed to meet the child's special needs or circumstances;

(8) if the child is placed in institutional care, determine whether efforts have been made to ensure placement of the child in the least restrictive environment consistent with the best interest and special needs of the child;

(9) if the child is 16 years of age or older, order services that are needed to assist the child in making the transition from substitute care to independent living if the services are available in the community;

(10) determine plans, services, and further temporary orders necessary to ensure that a final order is rendered before the date for dismissal of the suit under this chapter; and

(11) determine the date for dismissal of the suit under this chapter and give notice in open court to all parties of:

(A) the dismissal date;

(B) the date of the next permanency hearing; and

(C) the date the suit is set for trial.

(b) The court shall also review the service plan, permanency report, and other information submitted at the hearing to:

(1) determine:

(A) the safety of the child;

(B) the continuing necessity and appropriateness of the placement;

(C) the extent of compliance with the case plan; and

(D) the extent of progress that has been made toward alleviating or mitigating the causes necessitating the placement of the child in foster care; and

(2) project a likely date by which the child may be returned to and safely maintained in the child's home, placed for adoption, or placed in permanent managing conservatorship.

SECTION 48. Section 263.402, Family Code, is amended to read as follows:

Sec. 263.402. MONITORED RETURN OF CHILD TO PARENT [~~OR PLACEMENT WITH RELATIVE~~]. (a) Notwithstanding Section 263.401, the court may retain jurisdiction and not dismiss the suit or render a final order as required by that section if the court renders a temporary order that:

(1) finds that retaining jurisdiction under this section is in the best interest of the child;

(2) orders the department to return the child to the child's parent [~~or to place the child with a relative of the child~~];

(3) orders the department to continue to serve as temporary managing conservator of the child; and

(4) orders the department to monitor the child's placement to ensure that the child is in a safe environment.

(b) If the court renders an order under this section, the court shall:

(1) include in the order specific findings regarding the grounds for the order; and

(2) schedule a new date, not later than the 180th day after the date the temporary order is rendered, for dismissal of the suit.

(c) If a child placed with a parent [~~or relative~~] under this section must be moved from that home by the department before the dismissal of the suit or the rendering of a final order, the court shall, at the time of the move, schedule a new date for dismissal of the suit. The new dismissal date may not be later than the original dismissal date established under Section 263.401 or the 180th day after the date the child is moved under this subsection, whichever date is later.

(d) If the court renders an order under this section, the court must include in the order specific findings regarding the grounds for the order.

SECTION 49. Section 264.201, Family Code, is amended by adding Subsection (e) to read as follows:

(e) The department may not provide and a court may not order the department to provide supervision for visitation in a child custody matter unless the department is a petitioner or intervener in the underlying suit.

SECTION 50. Sections 263.003 and 263.004, Family Code, are repealed.

SECTION 51. (a) This Act takes effect September 1, 1999.

(b) The change in law made by this Act to Section 45.002(b), Family Code, applies only to a petition for a change of name of a child that is filed on or after the effective date of this Act. A petition filed before the effective date of this Act is governed by the law in effect on the date the petition was filed, and the former law is continued in effect for that purpose.

(c) The changes in law made to Sections 102.003, 105.001(b) and (d), 107.0135, 107.014(a), 107.015, 153.008, 153.434, 156.006(b), and 156.101(b), Family Code, by this Act apply only to a suit affecting the parent-child relationship filed on or after the effective date of this Act. A suit filed before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

(d) The change in law made by this Act to Chapter 262, Family Code, applies only to a suit affecting the parent-child relationship filed requesting an order to take possession of a child or to a child taken into possession without a court order on or after that date. A suit filed before the effective date of this Act or a child taken into possession before the effective date of this Act is governed by the law in effect on the date the suit was filed or the child was taken into possession, as appropriate, and the former law is continued in effect for that purpose.

SECTION 52. 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 Goodman moved to adopt the conference committee report on **HB 1622**.

The motion prevailed without objection.

HB 1997 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Palmer submitted the following conference committee report on **HB 1997**:

Austin, Texas, May 29, 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 1997** 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.

Madla	Palmer
Lucio	A. Reyna
Ellis	Haggerty
	Yarbrough
	Wilson
On the part of the Senate	On the part of the House

HB 1997, A bill to be entitled An Act relating to installation, repair, or removal of certain vent hoods.

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

SECTION 1. Section 6, Air Conditioning and Refrigeration Contractor

License Law (Article 8861, Vernon's Texas Civil Statutes), is amended by adding Subsection (h) to read as follows:

(h) This Act does not apply to a person who installs, repairs, or removes a vent hood of the type commonly used in residential and commercial kitchens.

SECTION 2. This Act takes effect immediately and applies only to the installation, repair, or removal of a vent hood that occurs on or after the effective date of this Act. Installations, repairs, and removals of vent hoods that occur before the effective date of this Act are governed by the law in effect on the day the installation, repair, or removal occurred, and that law is continued in effect for that purpose.

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

Representative Palmer moved to adopt the conference committee report on **HB 1997**.

A record vote was requested.

The motion prevailed by (Record 532): 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; Corte; 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; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; 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.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Crownover; Jones, D.

Absent — Haggerty; Hochberg.

HB 2947 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Goodman submitted the following conference committee report on **HB 2947**:

Austin, Texas, May 27, 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 2947** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Harris	Goodman
Ellis	P. King
Duncan	Naishtat
On the part of the Senate	On the part of the House

HB 2947, A bill to be entitled An Act relating to the disposition of children adjudicated as having engaged in delinquent conduct.

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

SECTION 1. Section 54.04, Family Code, is amended by amending Subsection (d) and adding Subsection (q) to read as follows:

(d) If the court or jury makes the finding specified in Subsection (c) allowing the court to make a disposition in the case:

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

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

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

(i) a suitable foster home; or

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

(2) if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct <u>that violates a penal law of this state or the United States of the grade of felony or, if the requirements of Subsection (q) are met, of the grade of misdemeanor,</u> and if the petition was not approved by the grand jury under Section 53.045, the court may commit the child to the Texas Youth Commission without a determinate sentence;

(3) if the court or jury found at the conclusion of the adjudication hearing that the child engaged in delinquent conduct that included a violation of a penal law listed in Section 53.045(a) and if the petition was approved by the grand jury under Section 53.045, the court or jury may sentence the child to commitment in the Texas Youth Commission with a

possible transfer to the institutional division or the pardons and paroles division of the Texas Department of Criminal Justice for a term of:

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

(i) a capital felony;

(ii) a felony of the first degree; or

(iii) an aggravated controlled substance felony;

(B) not more than 20 years if the conduct constitutes a felony of the second degree; or

(C) not more than 10 years if the conduct constitutes a felony of the third degree;

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

(5) if applicable, the court or jury may make a disposition under Subsection (m).

(q) The court may make a disposition under Subsection (d)(2) for delinquent conduct that violates a penal law of the grade of misdemeanor if:

(1) the child has been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony or misdemeanor on at least two previous occasions;

(2) of the previous adjudications, the conduct that was the basis for one of the adjudications occurred after the date of another previous adjudication; and

(3) the conduct that is the basis of the current adjudication occurred after the date of at least two previous adjudications.

SECTION 2. Section 54.05, Family Code, is amended by amending Subsections (f) and (g) and adding Subsection (j) to read as follows:

(f) A disposition based on a finding that the child engaged in delinquent conduct that violates a penal law of this state or the United States of the grade of felony or, if the requirements of Subsection (j) are met, of the grade of misdemeanor, may be modified so as to commit the child to the Texas Youth Commission if the court after a hearing to modify disposition finds by a preponderance of the evidence that the child violated a reasonable and lawful order of the court. A disposition based on a finding that the child engaged in habitual felony conduct as described by Section 51.031 of this code or in delinquent conduct that included a violation of a penal law listed in Section 53.045(a) of this code may be modified to commit the child to the Texas Youth Commission with a possible transfer to the institutional division or the pardons and paroles division of the Texas Department of Criminal Justice for a definite term prescribed by Section 54.04(d)(3) of this code if the original petition was approved by the grand jury under Section 53.045 of this code and if after a hearing to modify the disposition the court or jury finds that the child violated a reasonable and lawful order of the court.

(g) A disposition based solely on a finding that the child engaged in conduct indicating a need for supervision may not be modified to commit the child to the Texas Youth Commission. A new finding in compliance with Section 54.03 of this code must be made that the child engaged in delinquent conduct that meets the requirements for commitment under Section 54.04 [~~as defined in Section 51.03(a) of this code~~].

(j) The court may modify a disposition under Subsection (f) that is based on a finding that the child engaged in delinquent conduct that violates a penal law of the grade of misdemeanor if:

(1) the child has been adjudicated as having engaged in delinquent conduct violating a penal law of the grade of felony or misdemeanor on at least two previous occasions; and

(2) of the previous adjudications, the conduct that was the basis for the adjudications occurred after the date of another previous adjudication.

SECTION 3. (a) This Act takes effect September 1, 1999.

(b) This Act applies only to conduct that occurs on or after the effective date of this Act. Conduct violating the penal law of this state occurs on or after the effective date of this Act if all elements of the violation occur on or after that date.

(c) Conduct that occurs before the effective date of this Act is governed by the law in effect at the time the conduct occurred, and that 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 Goodman moved to adopt the conference committee report on **HB 2947**.

The motion prevailed without objection.

SB 1520 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Elkins submitted the conference committee report on **SB 1520**.

Representative Elkins moved to adopt the conference committee report on **SB 1520**.

The motion prevailed without objection.

HB 485 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hill submitted the following conference committee report on **HB 485**:

Austin, Texas, May 29, 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 485** 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.

Madla	Hill
Nixon	Clark
Lucio	Bailey
On the part of the Senate	On the part of the House

HB 485, A bill to be entitled An Act relating to the presumed validity of a municipal act or proceeding.

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

SECTION 1. Subchapter A, Chapter 51, Local Government Code, is amended by adding Section 51.003 to read as follows:

Sec. 51.003. MUNICIPAL ACT OR PROCEEDING PRESUMED VALID. (a) A governmental act or proceeding of a municipality is conclusively presumed, as of the date it occurred, to be valid and to have occurred in accordance with all applicable statutes and ordinances if:

(1) the third anniversary of the effective date of the act or proceeding has expired; and

(2) a lawsuit to annul or invalidate the act or proceeding has not been filed on or before that third anniversary.

(b) This section does not apply to:

(1) an act or proceeding that was void at the time it occurred;

(2) an act or proceeding that, under a statute of this state or the United States, was a misdemeanor or felony at the time the act or proceeding occurred;

(3) an incorporation or attempted incorporation of a municipality, or an annexation or attempted annexation of territory by a municipality, within the incorporated boundaries or extraterritorial jurisdiction of another municipality that occurred without the consent of the other municipality in violation of Chapter 42 or 43;

(4) an ordinance that, at the time it was passed, was preempted by a statute of this state or the United States, including Section 1.06 or 109.57, Alcoholic Beverage Code; or

(5) a matter that on the effective date of this section:

(A) is involved in litigation if the litigation ultimately results in the matter being held invalid by a final judgment of a court; or

(B) has been held invalid by a final judgment of a court.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Representative Hill moved to adopt the conference committee report on **HB 485**.

A record vote was requested.

The motion prevailed by (Record 533): 137 Yeas, 4 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Chisum; Christian;

Clark; Coleman; Cook; Counts; Craddick; Cuellar; Culberson; Danburg; Davis, J.; Davis, Y.; 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; Hardcastle; Hawley; Heflin; 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; 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; 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.

Nays — Crabb; Hamric; Hilbert; Shields.
Present, not voting — Mr. Speaker(C).

Absent, Excused — Crownover; Jones, D.

Absent — Carter; Chavez; Corte; Delisi; Hartnett; Krusee.

STATEMENTS OF VOTE

When Record No. 533 was taken, I was in the house but away from my desk. I would have voted yes.

Chavez

When Record No. 533 was taken, I was in the house but away from my desk. I would have voted yes.

Delisi

When Record No. 533 was taken, I was in the house but away from my desk. I would have voted yes.

Hartnett

I was shown voting yes on Record No. 533. I intended to vote no.

Keel

HB 143 - VOTE RECONSIDERED

Representative Thompson moved to reconsider the vote by which the house adopted the conference committee report on **HB 143**.

The motion to reconsider prevailed.

HB 143 - HOUSE DISCHARGES CONFEREES
HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS

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

HB 143, A bill to be entitled An Act relting to the personal needs allowance for certain Medicaid recipients who are residents of long-term care facilities.

Representative Thompson moved to discharge the conferees and concur in the senate amendments to **HB 143**.

The motion prevailed without objection.

Senate Committee Substitute

CSHB 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.

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

SECTION 1. Section 32.024, Human Resources Code, is amended by adding Subsection (v) to read as follows:

(v) The department shall set a personal needs allowance of not less than $60 a month for a resident of a convalescent or nursing home or related institution licensed under Chapter 242, Health and Safety Code, personal care facility, ICF-MR facility, or other similar long-term care facility who receives medical assistance. The department may send the personal needs allowance directly to a resident who receives Supplemental Security Income (SSI) (42 U.S.C. Section 1381 et seq.). This subsection does not apply to a resident who is participating in a medical assistance waiver program administered by the department.

SECTION 2. (a) This Act takes effect September 1, 1999, and applies only to a personal needs allowance paid on or after that date.

(b) The Health and Human Services Commission or Texas Department of Human Services is required to 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 commission or department may, but is not required to, implement this Act using other appropriations available for the purpose.

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

Senate Amendment No. 1

Amend **CSHB 143**, SECTION 1, Subsection (v), on page 1, line 15, after the word "department" by striking the words "shall set a personal needs allowance of not less than $60 a month" and inserting the words "is authorized to increase the personal needs allowance above the minimum of $30 a month, subject to the availability of funds,".

HB 2824 - HOUSE DISCHARGES CONFEREES
HOUSE CONCURS IN SENATE AMENDMENTS
TEXT OF SENATE AMENDMENTS

Representative Gray called up with senate amendments for consideration at this time.

HB 2814, A bill to be entitled An Act relating to the subpoena authority of certain licensing agencies.

Representative Gray moved to discharge the conferees and concur in the senate amendments to **HB 2824**.

The motion prevailed without objection.

Senate Amendment No. 1

Amend **HB 2824** as follows:

(1) In SECTION 1 of the bill, in proposed Section 50.0225(a), Human Resources Code, between "the board may" and "issue a subpoena" (senate committee printing, page 1, line 14), insert "request that the commissioner of public health or the commissioner's designee approve the issuance of a subpoena. If the request is approved, the board may".

(2) In SECTION 2 of the bill, in proposed Section 8C(a), Chapter 462, Acts of the 68th Legislature, Regular Session, 1983 (Article 4413(51), Vernon's Texas Civil Statutes), between "the council may" and "issue a subpoena" (senate committee printing, page 1, line 63), insert "request that the commissioner of public health or the commissioner's designee approve the issuance of a subpoena. If the request is approved, the council may".

(3) In SECTION 3 of the bill, in amended Section 11B(a), Licensed Marriage and Family Therapist Act (Article 4512c-1, Vernon's Texas Civil Statutes), between "the board may" and "issue a subpoena" (senate committee printing, page 2, line 48), insert "request that the commissioner of public health or the commissioner's designee approve the issuance of a subpoena. If the request is approved, the board may".

(4) In SECTION 4 of the bill, in proposed Section 5B(a), Chapter 498, Acts of the 62nd Legislature, Regular Session, 1971 (Article 4512d, Vernon's Texas Civil Statutes), between "the board may" and "issue a subpoena" (senate committee printing, page 4, line 5), insert "request that the commissioner of public health or the commissioner's designee approve the issuance of a subpoena. If the request is approved, the board may".

(5) In SECTION 5 of the bill, in amended Section 16D(a), Licensed Professional Counselor Act (Article 4512g, Vernon's Texas Civil Statutes), between "the board may" and "issue a subpoena" (senate committee printing, page 4, line 54), insert "request that the commissioner of public health or the commissioner's designee approve the issuance of a subpoena. If the request is approved, the board may".

(6) In SECTION 6 of the bill, in amended Section 16C(a), Licensed Dietitian Act (Article 4512h, Vernon's Texas Civil Statutes), between "the board may" and "issue a subpoena" (senate committee printing, page 5, line 55), insert "request that the commissioner or the commissioner's designee approve the issuance of a subpoena. If the request is approved, the board may".

(7) In SECTION 8 of the bill, in proposed Section 24A(a), Chapter 381, Acts of the 68th Legislature, Regular Session, 1983 (Article 4512j, Vernon's Texas Civil Statutes), between "the board may" and "issue a subpoena" (senate committee printing, page 6, line 65), insert "request that the commissioner of public health or the commissioner's designee approve the issuance of a subpoena. If the request is approved, the board may".

(8) In SECTION 9 of the bill, in proposed Section 11B(a), Texas Medical Physics Practice Act (Article 4512n, Vernon's Texas Civil Statutes), between "the board may" and "issue a subpoena" (senate committee printing, page 7, line 66), insert "request that the commissioner of public health or the commissioner's designee approve the issuance of a subpoena. If the request is approved, the board may".

(9) In SECTION 10 of the bill, in proposed Section 19A(a), Licensed Perfusionists Act (Article 4529e, Revised Statutes), between "the board may" and "issue a subpoena" (senate committee printing, page 8, line 45), insert "request that the commissioner or the commissioner's designee approve the issuance of a subpoena. If the request is approved, the board may".

(10) In SECTION 12 of the bill, in proposed Section 1.12C(a), Chapter 366, Acts of the 61st Legislature, Regular Session, 1969 (Article 4566-1.01 et seq., Vernon's Texas Civil Statutes), between "the committee may" and "issue a subpoena" (senate committee printing, page 9, lines 37 and 38), insert "request that the commissioner of public health or the commissioner's designee approve the issuance of a subpoena. If the request is approved, the committee may".

(11) In SECTION 14 of the bill, in proposed Section 6A(a), Orthotics and Prosthetics Act (Article 8920, Revised Statutes), between "the board may" and "issue a subpoena" (senate committee printing, page 10, line 29), insert "request that the commissioner or the commissioner's designee approve the issuance of a subpoena. If the request is approved, the board may".

Senate Amendment No. 2

Amend **HB 2824** as follows:

(1) In SECTION 15 of the bill, strike proposed Subsections (d) and (e) of Section 241.051, Health and Safety Code (senate committee printing, page 11 lines 28-47), and substitute the following:

(d) All information and materials obtained or compiled by the department in connection with a complaint and investigation concerning a hospital are confidential and not subject to disclosure under Section 552.001 et. seq., Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the department or its employees or agents involved in the enforcement action except that this information may be disclosed to:

(1) persons involved with the department in the enforcement action against the hospital;

(2) the hospital that is the subject of the enforcement action, or the hospital's authorized representative;

(3) appropriate state or federal agencies that are authorized to inspect, survey or investigate hospital services;

(4) law enforcement agencies; and

(5) persons engaged in bona fide research, if all individual-identifying and hospital-identifying information has been deleted.

(e) The following information is subject to disclosure in accordance with Section 552.001 et. seq., Government Code:

(1) a notice of alleged violation against the hospital, which notice

shall include the provisions of law which the hospital is alleged to have violated, and a general statement of the nature of the alleged violation;

(2) the pleadings in the administrative proceeding; and

(3) a final decision or order by the department.

(2) Between existing SECTIONS 15 and 16 of the bill (senate committee printing, page 11, between 47 and 48), insert the following new SECTION of the bill, appropriately numbered:

SECTION ____. Section 577.013, Health and Safety Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) All information and materials obtained or compiled by the department in connection with a complaint and investigation concerning a mental hospital licensed under this chapter are confidential and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the department or its employees or agents involved in the enforcement action except that this information may be disclosed to:

(1) persons involved with the department in the enforcement action against the licensed mental hospital;

(2) the licensed mental hospital that is the subject of the enforcement action, or the licensed mental hospital's authorized representative;

(3) appropriate state or federal agencies that are authorized to inspect, survey or investigate licensed mental hospital services;

(4) law enforcement agencies; and

(5) persons engaged in bona fide research, if all individual-identifying information and information identifying the licensed mental hospital has been deleted.

(e) The following information is subject to disclosure in accordance with Section 552.001 et seq., Government Code:

(1) a notice of alleged violation against the licensed mental hospital, which notice shall include the provisions of law which the licensed mental hospital is alleged to have violated, and the nature of the alleged violation;

(2) the pleadings in the administrative proceeding; and

(3) a final decision or order by the department.

HB 846 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative R. Lewis submitted the following conference committee report on **HB 846**:

Austin, Texas, May 28, 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 846** 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	R. Lewis
Armbrister	Cook
Lucio	T. King
Wentworth	Puente
	Counts
On the part of the Senate	On the part of the House

HB 846, A bill to be entitled An Act relating to the administration, management, operation, and authority of water districts and authorities.

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

SECTION 1. Section 36.060, Water Code, is amended by adding Subsection (d) to read as follows:

(d) Section 36.052(a) notwithstanding, this section prevails over any other law in conflict with or inconsistent with this section, including a special law governing a specific district. If the application of this section results in an increase in the fees of office for any district, that district's fees of office shall not increase unless the district's board by resolution authorizes payment of the higher fees.

SECTION 2. Section 36.068, Water Code, is amended by adding Subsection (d) to read as follows:

(d) The board may establish a sick leave pool for employees of the district in the same manner as that authorized for the creation of a sick leave pool for state employees by Subchapter A, Chapter 661, Government Code.

SECTION 3. Subchapter D, Chapter 36, Water Code, is amended by adding Section 36.123 to read as follows:

Sec. 36.123. RIGHT TO ENTER LAND. (a) The directors, engineers, attorneys, agents, operators, and employees of a district or water supply corporation may go on any land to inspect, make surveys, or perform tests to determine the condition, value, and usability of the property, with reference to the proposed location of works, improvements, plants, facilities, equipment, or appliances. The cost of restoration shall be borne by the district or the water supply corporation.

(b) District employees and agents are entitled to enter any public or private property within the boundaries of the district or adjacent to any reservoir or other property owned by the district at any reasonable time for the purpose of inspecting and investigating conditions relating to the quality of water in the state or the compliance with any rule, regulation, permit, or other order of the district. District employees or agents acting under this authority who enter private property shall observe the establishment's rules and regulations concerning safety, internal security, and fire protection and shall notify any occupant or management of their presence and shall exhibit proper credentials.

SECTION 4. Section 49.001(a), Water Code, is amended by amending Subdivision (1) and adding Subdivision (10) to read as follows:

(1) "District" means any district or authority created by authority of either Sections 52(b)(1) and (2), Article III, or Section 59, Article XVI, Texas Constitution, regardless of how created. The term "district" shall not include any navigation district or port authority created under general or special law, [~~or~~] any conservation and reclamation district created pursuant to Chapter 62,

Acts of the 52nd Legislature, 1951 (Article 8280-141, Vernon's Texas Civil Statutes), or any conservation and reclamation district governed by Chapter 36 unless a special law creating the district or amending the law creating the district states that this chapter applies to that district.

(10) "District facility" means tangible real and personal property of the district, including any plant, equipment, means, or instrumentality owned, leased, operated, used, controlled, furnished, or supplied for, by, or in connection with the business or operations of a district. The term specifically includes a reservoir or easement of a district.

SECTION 5. Section 49.002, Water Code, is amended to read as follows:

Sec. 49.002. APPLICABILITY. (a) Except as provided by Subsection (b), this [~~This~~] chapter applies to all general and special law districts to the extent that the provisions of this chapter do not directly conflict with a provision in any other chapter of this code or any Act creating or affecting a special law district. In the event of such conflict, the specific provisions in such other chapter or Act shall control.

(b) This chapter does not apply to a district governed by Chapter 36 unless a special law creating the district or amending the law creating the district states that this chapter applies to that district.

SECTION 6. Section 49.054, Water Code, is amended by adding new Subsection (d) and redesignating existing Subsections (d), (e), and (f) as Subsections (e), (f), and (g) to read as follows:

(d) If the board appoints a director to serve as treasurer, that director is not subject to the investment officer training requirements of Section 2256.007, Government Code, unless the director is also appointed as the district's investment officer under Chapter 2256, Government Code.

(e) The board may appoint another director, the general manager, or any employee as assistant or deputy secretary to assist the secretary, and any such person shall be entitled to certify as to the authenticity of any record of the district, including but not limited to all proceedings relating to bonds, contracts, or indebtedness of the district.

(f) [~~(e)~~] After any election or appointment of a director, a district shall notify the executive director within 30 days after the date of the election or appointment of the name and mailing address of the director chosen and the date that director's term of office expires. The executive director shall provide forms to the district for such purpose.

(g) [~~(f)~~] This section does not apply to special water authorities.

SECTION 7. Section 49.057(a), Water Code, is amended to read as follows:

(a) The board shall be responsible for the management of all the affairs of the district. The district shall employ or contract with all persons, firms, partnerships, corporations, or other entities, public or private, deemed necessary by the board for the conduct of the affairs of the district, including, but not limited to, engineers, attorneys, financial advisors, operators, bookkeepers, tax assessors and collectors, auditors, and administrative staff. The board may appoint an employee of a firm, partnership, corporation, or other entity with which the district has contracted to serve as the investment officer of the district under Section 2256.007, Government Code.

SECTION 8. Section 49.066(a), Water Code, is amended to read as follows:

(a) A district may sue and be sued in the courts of this state in the name of the district by and through its board. A suit for contract damages may be brought against a district only on a written contract of the district approved by the district's board. All courts shall take judicial notice of the creation of the district and of its boundaries.

SECTION 9. Section 49.069, Water Code, is amended by adding Subsection (d) to read as follows:

(d) The board may establish a sick leave pool for employees of the district in the same manner as that authorized for the creation of a sick leave pool for state employees by Subchapter A, Chapter 661, Government Code.

SECTION 10. Section 49.105, Water Code, is amended to read as follows:

Sec. 49.105. VACANCIES. (a) Except as otherwise provided in this code, a vacancy [~~all vacancies~~] on the board and in other offices shall be filled for the unexpired term by appointment of the board not later than the 60th day after the date the vacancy occurs.

(b) If the board has not filled a vacancy by appointment before the 61st day after the date the vacancy occurs, a petition, signed by more than 10 percent of the registered voters of the district, requesting the board to fill the vacancy by appointment may be presented to the board.

(c) If the number of directors is reduced to fewer than a majority or if a vacancy continues beyond the 90th day after the date the vacancy occurs, the vacancy or vacancies shall be filled by appointment by the commission if the district is required by Section 49.181 to obtain commission approval of its bonds or by the county commissioners court if the district was created by the county commissioners court, regardless of whether a petition has been presented to the board under Subsection (b). An appointed director shall serve for the unexpired term of the director he or she is replacing.

(d) [~~(c)~~] In the event of a failure to elect one or more members of the board of a district resulting from the absence of, or failure to vote by, the qualified voters in the district, the current members of the board holding the positions not filled at such election shall be deemed to have been reelected and shall serve an additional term of office.

SECTION 11. Section 49.152, Water Code, is amended to read as follows:

Sec. 49.152. PURPOSES FOR BORROWING MONEY. The district may issue bonds, notes, or other obligations to borrow money for any corporate purpose or combination of corporate purposes only in compliance with the methods and procedures [~~specifically~~] provided by this chapter or by other applicable [~~general~~] law.

SECTION 12. Section 49.155, Water Code, is amended to read as follows:

Sec. 49.155. PAYMENT [~~REPAYMENT~~] OF EXPENSES. (a) The district may pay out of bond proceeds or other available funds of the district all [~~costs and~~] expenses of the district authorized by this section, including expenses reasonable and necessary to effect the issuance, sale, and delivery

of bonds as determined by the board, [~~necessarily incurred in the organization and operation of a district during creation and construction periods~~] including, but not limited to, the following:

(1) interest during construction not to exceed three years after acceptance of the project [~~organizational, administrative, and operating expenses~~];

(2) capitalized interest not to exceed three years' interest;

(3) reasonable and necessary reserve funds not to exceed two years' interest on the bonds;

(4) interest on funds advanced to the district;

(5) financial advisor, bond counsel, attorney, and other consultant fees;

(6) paying agent, registrar, and escrow agent fees;

(7) right-of-way acquisition;

(8) underwriter's discounts or premiums;

(9) engineering fees, including surveying expenses and plan review fees;

(10) commission and attorney general fees;

(11) printing costs;

(12) all organizational, administrative, and operating costs during creation and construction periods;

(13) the cost of investigation and making plans, including preliminary plans and associated engineering reports;

(14) land required for stormwater control;

(15) costs associated with requirements for federal stormwater permits; and

(16) costs associated with requirements for endangered species permits[~~;~~

[~~(3) the cost of the engineer's report;~~

[~~(4) legal fees; and~~

[~~(5) any other incidental expenses~~].

(b) For purposes of this section, construction periods shall mean any periods during which the district is constructing its facilities or there is construction by third parties of above ground improvements within the district, but in no event longer than five years.

(c) The district may reimburse any person for money advanced for the purposes in Subsection (a) and may be charged interest on such funds.

(d) These payments may be made from money obtained from the issuance of notes or the sale of bonds issued by the district or out of maintenance taxes or other revenues of the district.

SECTION 13. Section 53.063, Water Code, is amended to read as follows:

Sec. 53.063. SUPERVISOR'S QUALIFICATIONS. To be qualified for election as a supervisor, a person must be a registered voter of the district[~~:~~

[~~(1) a resident of the district;~~

[~~(2) an owner of land in the district; and~~

[~~(3) 21 years old or older at the time of his election~~].

SECTION 14. Section 661.001(4), Government Code, is amended to read as follows:

(4) "State agency" means:

(A) a board, commission, department, or other agency in the executive branch of state government created by the constitution or a statute of the state;

(B) an institution of higher education as defined by Section 61.003, Education Code;

(C) [~~a river authority;~~

[~~(D)~~]] a legislative agency, but not either house or a member of the legislature; or

(D) [~~(E)~~]] the supreme court, the court of criminal appeals, a court of appeals, or a state judicial agency.

SECTION 15. Sections 49.072 and 54.103, Water Code, are repealed.

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.

Representative R. Lewis moved to adopt the conference committee report on **HB 846**.

The motion prevailed without objection.

SB 694 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative J. Solis submitted the conference committee report on **SB 694**.

Representative J. Solis moved to adopt the conference committee report on **SB 694**.

The motion prevailed without objection.

SB 1615 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative J. Solis submitted the conference committee report on **SB 1615**.

Representative J. Solis moved to adopt the conference committee report on **SB 1615**.

The motion prevailed without objection.

HB 628 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hope submitted the following conference committee report on **HB 628**:

Austin, Texas, May 29, 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 628** have met

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

Shapiro	Hope
Jackson	Hinojosa
West	Dunnam
Fraser	Wise
Nelson	Green
On the part of the Senate	On the part of the House

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.

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

SECTION 1. Chapter 38, Penal Code, is amended by adding Section 38.17 to read as follows:

Sec. 38.17. FAILURE TO STOP OR REPORT AGGRAVATED SEXUAL ASSAULT OF CHILD. (a) A person, other than a person who has a relationship with a child described by Section 22.04(b), commits an offense if:

(1) the actor observes the commission or attempted commission of an offense prohibited by Section 22.021(a)(2)(B) under circumstances in which a reasonable person would believe that an offense of a sexual or assaultive nature was being committed or was about to be committed against the child;

(2) the actor fails to assist the child or immediately report the commission of the offense to a peace officer or law enforcement agency; and

(3) the actor could assist the child or immediately report the commission of the offense without placing the actor in danger of suffering serious bodily injury or death.

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

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 Hope moved to adopt the conference committee report on **HB 628**.

The motion prevailed without objection.

HB 1799 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative P. King submitted the following conference committee report on **HB 1799**:

Austin, Texas, May 28, 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 1799** 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	Eiland
Madla	Wilson
Armbrister	Pitts
	Coleman
	P. King
On the part of the Senate	On the part of the House

HB 1799, A bill to be entitled An Act relating to the assignment or deposit of certain lottery prizes.

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

SECTION 1. Section 466.402(d), Government Code, is amended to read as follows:

(d) The state is discharged of all further liability on the payment of a prize under Section 466.403, 466.404, 466.406, [~~or~~] 466.407, or 466.410 or this section or under any additional procedures established by rule.

SECTION 2. Section 466.406, Government Code, is amended to read as follows:

Sec. 466.406. RIGHT TO PRIZE NOT GENERALLY ASSIGNABLE. (a) Except as [~~otherwise~~] provided by this section and Section 466.410, the right of any person to a prize is not assignable.

(b) Payment of prize payments not previously assigned as provided by this section or Section 466.410 shall [~~a prize may~~] be made to the estate of a deceased prizewinner if the prizewinner was an individual.

(c) A prize to which a winner is otherwise entitled may be paid to any person under an appropriate judicial order.

SECTION 3. Section 466.408(b), Government Code, is amended to read as follows:

(b) If a claim is not made for prize money on or before the 180th day after the date on which the winner was selected, the prize money shall be deposited to the credit of the Texas Department of Health state-owned multicategorical teaching hospital account or the tertiary care facility account as follows:

(1) not more than $40 million in prize money each biennium may be deposited to or appropriated from the Texas Department of Health state-owned multicategorical teaching hospital account, which is an account in the general revenue fund; and

(2) all prize money subject to this section in excess of $40 million each biennium shall be deposited in the tertiary care facility account. Money deposited in the tertiary care facility account may only be appropriated to the department for purposes specified in Chapter 46, Health and Safety Code [~~used to provide additional money to the state lottery account for the purposes prescribed by Section 466.355(b)(1)~~].

SECTION 4. Subchapter I, Chapter 466, Government Code, is amended by adding Section 466.410 to read as follows:

Sec. 466.410. ASSIGNMENT OF PRIZES. (a) A person may assign, in whole or in part, the right to receive prize payments that are paid by the commission in installments over time if the assignment is made to a person

designated by an order of a district court of Travis County, except that installment prize payments due within the final two years of the prize payment schedule may not be assigned.

(b) A district court shall issue an order approving a voluntary assignment and directing the commission to direct prize payments in whole or in part to the assignee if:

(1) a copy of the petition for the order and copies of all notices of any hearing in the matter have been served on the executive director not later than 20 days prior to any hearing or entry of any order. The commission may intervene in a proceeding to protect the interests of the commission but shall not be considered an indispensable or necessary party. A petition filed under this section shall include in the caption the prizewinner's name as it appears on the lottery claim form;

(2) the assignment is in writing, executed by the assignor and assignee (or designated agent), and by its terms subject to the laws of this state; and

(3) the assignor provides a sworn and notarized affidavit stating that the assignor:

(A) is of sound mind, over 18 years of age, is in full command of the person's faculties, and is not acting under duress;

(B) has been advised regarding the assignment by independent legal counsel and has had the opportunity to receive independent financial and tax advice concerning the effects of the assignment;

(C) understands that the assignor will not receive the prize payments, or portions of the prize payments, for the assigned years;

(D) understands and agrees that with regard to the assigned payments, the state, the commission, and its officials and employees will have no further liability or responsibility to make the assigned payments to the assignor;

(E) has been provided a one-page written disclosure statement stating, in boldfaced type, 14 points or larger:

(i) the payments being assigned, by amounts and payment dates;

(ii) the purchase price being paid, if any;

(iii) if a purchase price is paid, the rate of discount to the present value of the prize, assuming daily compounding and funding on the contract date; and

(iv) the amount, if any, of any origination or closing fees that will be charged to the assignor; and

(F) was advised in writing, at the time the assignment was signed, that the assignor had the right to cancel without any further obligation not later than the third business day after the date the assignment was signed.

(c) It shall be the responsibility of the assignor to bring to the attention of the court, either by sworn testimony or by written declaration submitted under penalty of perjury, the existence or nonexistence of a current spouse. If married, the assignor shall identify his or her spouse and submit to the court

a sworn and notarized statement wherein the spouse consents to the assignment. If the assignor is married and the sworn and notarized statement is not presented to the court, the court shall determine, to the extent necessary and as appropriate under applicable law, the ability of the assignor to make the proposed assignment without the spouse's consent.

(d) With respect to any given prize, the order shall also recite and identify all prior assignments by amount of or fraction of payment assigned, the identity of the assignee, and the date(s) of payment(s) assigned. A court order obtained pursuant to this section, together with all such prior orders, shall not require the commission to divide any single prize payment among more than three different persons.

(e) The court order shall include specific findings as to compliance with the requirements of Subsections (b), (c), and (d) and shall specify the prize payment or payments assigned, or any portion thereof, including the dates and amounts of the payments to be assigned, the years in which each payment is to begin and end, the gross amount of the annual payments assigned before taxes, the prizewinner's name as it appears on the lottery claim form, the assignor's social security or tax identification number, and, if applicable, the citizenship or resident alien number of the assignee if an individual.

(f) A certified copy of a court order granted under this section shall be delivered to the commission and such order must be provided to the commission no later than 20 days prior to the date upon which the first assigned payment is to be paid to the assignee. Within 20 days of receipt of the court order, the commission shall acknowledge in writing to both the assignor and the assignee its receipt of said court order. Unless the commission provides written notice to the assignor and assignee that the commission cannot comply with the court order, the commission shall thereafter make the prize payments in accordance with the court order.

(g) The commission shall establish and collect a reasonable fee to defray any administrative expenses associated with an assignment made under this section, including the cost to the commission of any processing fee imposed by a private annuity provider. The commission shall establish the amount of the fee to reflect the direct and indirect costs associated with processing the assignment.

(h) An assignment pursuant to court order may not include or cover payments or portions of payments that are subject to any offset provided by this chapter.

(i) Notwithstanding any other provision of this section, there will be no right to assign prize payments following:

(1) the issuance, by the Internal Revenue Service, of a technical rule letter, revenue ruling, or other public ruling of the Internal Revenue Service that determines that, based on the right of assignment as provided by this section, a lottery prizewinner who does not assign prize payments would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when paid; or

(2) the issuance by a court of a published decision holding that, based on the right of assignment as provided by this section, a lottery

prizewinner who does not assign prize payments would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when paid.

(j) After receiving a letter or ruling from the Internal Revenue Service or a published decision of a court as provided by Subsection (i)(1) or (2), the executive director shall immediately file a copy of the letter, ruling, or published decision with the secretary of state. When the executive director files a copy of the letter, ruling, or published decision with the secretary of state, an assignor is ineligible to assign a prize under this section, and the commission shall not make any payment to an assignee pursuant to a court order entered after the date of such letter or ruling.

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

SECTION 6. The change in law made by this Act to Section 466.408(b), Government Code, applies only to a prize for which the winner is selected on or after September 1, 1999. A prize for which the winner was selected before September 1, 1999, 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.

SECTION 7. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Representative P. King moved to adopt the conference committee report on **HB 1799**.

The motion prevailed without objection.

HB 3014 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hawley submitted the following conference committee report on **HB 3014**:

Austin, Texas, May 29, 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 3014** 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.

Bernsen	Hawley
Jackson	Alexander
Armbrister	Uher
Lucio	
Cain	
On the part of the Senate	On the part of the House

HB 3014, A bill to be entitled An Act relating to the Texas Department of Transportation's automated registration and title system.

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

SECTION 1. Subchapter D, Chapter 502, Transportation Code, is amended by adding Section 502.1705 to read as follows:

Sec. 502.1705. ADDITIONAL FEE FOR AUTOMATED REGISTRATION AND TITLE SYSTEM. (a) In addition to other registration fees for a license plate or set of license plates or other device used as the registration insignia, a fee of $1 shall be collected.

(b) The department may use money collected under this section to perform one or more of the following:

(1) enhancing the department's automated registration and title system;

(2) providing for the automated on-site production of registration insignia; or

(3) providing for automated on-premises and off-premises self-service registration.

(c) This section applies only in a county in which the department's automated registration and title system has been implemented and in which 50,000 or more motor vehicles were registered during the preceding year.

SECTION 2. Section 502.180(e), Transportation Code, is amended to read as follows:

(e) The department shall adopt rules for the issuance and use of license plates and registration insignia issued under this chapter. The rules may provide for the use of an automated registration process, including:

(1) the automated on-site production of registration insignia; and

(2) automated on-premises and off-premises self-service registration.

SECTION 3. Sections 502.184(a) and (i), Transportation Code, are amended to read as follows:

(a) The owner of a registered motor vehicle may obtain from the department through the county assessor-collector replacement license plates or a replacement registration insignia by:

(1) filing with the assessor-collector a statement:

(A) showing that one or both of the license plates or the registration insignia to be replaced has been lost, stolen, or mutilated; and

(B) stating that no license plate or registration insignia to be replaced will be used on any vehicle owned or operated by the person making the statement;

(2) paying a fee of $5 plus the fees [~~fee~~] required by Sections [~~Section~~] 502.170(a) and 502.1705(a) for each set of replacement license plates or each replacement registration insignia, except as provided by Subsection (b), (c), or (i); and

(3) returning to the assessor-collector each replaced plate or registration insignia in the owner's possession.

(i) The owner of a vehicle listed in Section 502.180(h) may obtain replacement plates and a replacement registration insignia by paying a fee of $5 plus the fees [~~fee~~] required by Sections [~~Section~~] 502.170(a) and 502.1705(a).

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 Hawley moved to adopt the conference committee report on **HB 3014**.

The motion prevailed without objection.

SB 138 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hochberg submitted the conference committee report on **SB 138**.

Representative Hochberg moved to adopt the conference committee report on **SB 138**.

The motion prevailed without objection.

HB 571 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hupp submitted the following conference committee report on **HB 571**:

Austin, Texas, May 29, 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 571** 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.

Nelson	Hupp
Shapiro	Keel
Wentworth	Najera
Haywood	
On the part of the Senate	On the part of the House

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.

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

SECTION 1. Subchapter F, Chapter 521, Transportation Code, is amended by adding Section 521.126 to read as follows:

Sec. 521.126. ELECTRONICALLY READABLE INFORMATION. (a) The department may not include any information on a driver's license, commercial driver's license, or identification certificate in an electronically readable form other than the information printed on the license and a physical description of the licensee.

(b) The department shall take necessary steps to ensure that the information is used only for law enforcement or governmental purposes.

(c) Unauthorized use of the information is a Class A misdemeanor.

SECTION 2. This Act applies only to a driver's license, commercial driver's license, or identification certificate for which an original or renewal application is submitted on or after the effective date of this Act.

SECTION 3. This Act takes effect September 1, 1999.

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 Hupp moved to adopt the conference committee report on **HB 571**.

The motion prevailed without objection.

HB 918 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative A. Reyna submitted the following conference committee report on **HB 918**:

Austin, Texas, May 29, 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 918** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Wentworth	A. Reyna
Brown	Thompson
Ellis	Capelo
Duncan	Deshotel
On the part of the Senate	On the part of the House

HB 918, A bill to be entitled An Act relating to the copies prepared by a district or county clerk of certain court records.

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

SECTION 1. Subchapter C, Chapter 118, Local Government Code, is amended by adding Section 118.0526 to read as follows:

Sec. 118.0526. COPIES OF COURT RECORDS PRESERVED ONLY ON MICROFILM OR BY ELECTRONIC METHOD. (a) On the written request of a party in an action, the clerk of a county court shall provide the court with a copy of a motion, order, or other pleading in the action that is preserved only on microfilm or by other electronic means. The request must specify the document sought and the approximate date that the document was filed.

(b) The county clerk may not charge a fee for a copy made under this section.

SECTION 2. Subchapter D, Chapter 51, Government Code, is amended by adding Section 51.3195 to read as follows:

Sec. 51.3195. COPIES OF COURT RECORDS PRESERVED ONLY ON MICROFILM OR BY ELECTRONIC METHOD. (a) On the written request of a party in an action, the district clerk shall provide the court with a copy of a motion, order, or other pleading in the action that is preserved only on microfilm or by other electronic means. The request must specify the document sought and the approximate date that the document was filed.

(b) The district clerk may not charge a fee for a copy made under this section.

SECTION 3. This Act takes effect September 1, 1999.

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 A. Reyna moved to adopt the conference committee report on **HB 918**.

The motion prevailed without objection.

HB 2409 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative T. King submitted the following conference committee report on **HB 2409**:

Austin, Texas, May 28, 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 2409** 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.

Bernsen	T. King
Cain	Hawley
Armbrister	Siebert
Jackson	Pickett
	Hill
On the part of the Senate	On the part of the House

HB 2409, A bill to be entitled An Act relating to the issuance of a certificate of title for and the transfer of a motor vehicle that is not registered in this state.

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

SECTION 1. Section 501.021(a), Transportation Code, is amended to read as follows:

(a) A motor vehicle certificate of title is an instrument issued by the department that includes:

(1) the name and address of the purchaser and seller at the first sale or the transferee and transferor at a subsequent sale;

(2) the make of the motor vehicle;

(3) the body type of the vehicle;

(4) the manufacturer's permanent vehicle identification number of the vehicle or the vehicle's motor number if the vehicle was manufactured before the date that stamping a permanent identification number on a motor vehicle was universally adopted;

(5) the serial number for the vehicle;

(6) the number on the vehicle's current Texas license plates, if any;

(7) a statement:

(A) that no lien on the vehicle is recorded; or

(B) of the name and address of each lienholder and the date of each lien on the vehicle, listed in the chronological order in which the lien was recorded;

(8) a space for the signature of the owner of the vehicle;

(9) a statement indicating rights of survivorship under Section 501.031;

(10) if the vehicle has an odometer, the odometer reading indicated by the application for the certificate of title; and

(11) any other information required by the department.

SECTION 2. Section 501.023, Transportation Code, is amended by adding Subsection (c) to read as follows:

(c) The owner or a lessee of a commercial motor vehicle operating under the International Registration Plan or other agreement described by Section 502.054 that is applying for a certificate of title for purposes of registration only must be made directly to the department. Notwithstanding Section 501.138(a), an applicant for registration under this subsection shall pay the department the fee imposed by that section. The department shall send the fee to the appropriate county assessor-collector for distribution in the manner provided by Section 501.138.

SECTION 3. Section 501.0234(a), Transportation Code, is amended to read as follows:

(a) A person who sells at the first or a subsequent sale a motor vehicle and who holds a general distinguishing number issued under Chapter 503 or the Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes) shall:

(1) in the time and manner provided by law, apply, in the name of the purchaser of the vehicle, for the registration of the vehicle, if the vehicle is to be registered, and a certificate of title for the vehicle and file with the appropriate designated agent each document necessary to transfer title to or [~~and~~] register the vehicle; and at the same time

(2) remit any required motor vehicle sales tax.

SECTION 4. Subchapter B, Chapter 501, Transportation Code, is amended by adding Section 501.0275 to read as follows:

Sec. 501.0275. ISSUANCE OF TITLE FOR UNREGISTERED VEHICLE.

(a) The department shall issue a certificate of title for a motor vehicle that complies with the other requirements for issuance of a certificate of title under this chapter except that:

(1) the vehicle is not registered for a reason other than a reason provided by Section 501.051(6); and

(2) the applicant does not provide evidence of financial responsibility that complies with Section 502.153.

(b) On application for a certificate of title under this section, the applicant must surrender any license plates issued for the motor vehicle and any registration insignia for validation of those plates to the department.

SECTION 5. Section 520.022(a), Transportation Code, is amended to read as follows:

(a) A person, whether acting for that person or another, who sells, trades, or otherwise transfers a used motor vehicle shall deliver to the transferee at the time of delivery of the vehicle:

(1) the license receipt issued by the department for registration of the vehicle, if the vehicle was required to be registered at the time of the delivery; and

(2) a properly assigned certificate of title or other evidence of title as required under Chapter 501.

SECTION 6. Sections 520.031(a) and (b), Transportation Code, are amended to read as follows:

(a) Not later than the 20th working day after the date of receiving the documents under Section 520.022, the transferee of the used motor vehicle shall file with the county assessor-collector each document received under that section [~~the license receipt and the certificate of title or other evidence of title~~].

(b) The filing under Subsection (a) is an application for transfer of title as required under Chapter 501 and, if the license receipt is filed, an application for transfer of the registration of the motor vehicle.

SECTION 7. Section 548.052, Transportation Code, is amended to read as follows:

Sec. 548.052. VEHICLES NOT SUBJECT TO INSPECTION. This chapter does not apply to:

(1) a trailer, semitrailer, pole trailer, or mobile home moving under or bearing a current factory-delivery license plate or current in-transit license plate;

(2) a vehicle moving under or bearing a paper dealer in-transit tag, machinery license, disaster license, parade license, prorate tab, one-trip permit, antique license, temporary 24-hour permit, or permit license;

(3) a trailer, semitrailer, pole trailer, or mobile home having an actual gross weight or registered gross weight of 4,500 pounds or less;

(4) farm machinery, road-building equipment, a farm trailer, or a vehicle required to display a slow-moving-vehicle emblem under Section 547.703; [~~or~~]

(5) a former military vehicle, as defined by Section 502.275(o); or

(6) a vehicle for which a certificate of title has been issued but that is not required to be registered.

SECTION 8. Section 548.256(a), Transportation Code, is amended to read as follows:

(a) Before a vehicle that is brought into this state by a person other than a manufacturer or importer may be registered [~~may be issued a title under Section 501.030~~], the owner must have the vehicle inspected and have the inspection station record the following information on a verification form prescribed and provided by the department:

(1) the vehicle identification number;

(2) the number appearing on the odometer of the vehicle at the time of the inspection, if the vehicle has an odometer; and

(3) other information the department requires.

SECTION 9. The section heading to Section 548.256, Transportation Code, is amended to read as follows:

Sec. 548.256. VERIFICATION FORM REQUIRED TO REGISTER [~~AND TITLE~~] VEHICLE.

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.

Representative T. King moved to adopt the conference committee report on **HB 2409**.

The motion prevailed without objection.

SB 996 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Coleman submitted the conference committee report on **SB 996**.

Representative Coleman moved to adopt the conference committee report on **SB 996**.

The motion prevailed without objection.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

(Alexander in the chair)

HR 1350 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the chair announced the introduction of **HR 1350**, suspending the limitations on the conferees for **SB 1438**.

HB 2821 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative McCall submitted the following conference committee report on **HB 2821**:

Austin, Texas, May 28, 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 2821** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Cain	McCall
West	Oliveira
Wentworth	Bonnen
Ogden	Keffer
Sibley	Y. Davis
On the part of the Senate	On the part of the House

HB 2821, A bill to be entitled An Act relating to property tax exemptions for charitable organizations.

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

SECTION 1. Section 11.18(h), Tax Code, is amended to read as follows:

(h) Performance of noncharitable functions by a charitable organization that owns or uses exempt property does not result in loss of an exemption authorized by this section if those other functions are incidental to the organization's charitable functions. The division of responsibilities between an organization that qualifies as a charitable organization under Subsection (c) and another organization will not disqualify the organizations or any property owned or used by either organization from receiving an exemption under this section if the collaboration furthers the provision of one or more of the charitable functions described in Subsection (d) and if the other organization:

(1) is exempt from federal income taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(3) of that code;

(2) meets the criteria for a charitable organization under Subsections (e) and (f); and

(3) is under common control with the charitable organization described in this subsection.

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 McCall moved to adopt the conference committee report on **HB 2821**.

The motion prevailed without objection.

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. 38).

HB 3549 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Heflin submitted the following conference committee report on **HB 3549**:

Austin, Texas, May 29, 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 3549** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Wentworth	Heflin
Brown	Craddick
Cain	Y. Davis
Ratliff	Keffer
	McCall
On the part of the Senate	On the part of the House

HB 3549, A bill to be entitled An Act relating to the administration and collection of ad valorem taxes and certain local standby fees.

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

SECTION 1. Section 11.13(h), Tax Code, is amended to read as follows:

(h) Joint, [~~or~~] community, or successive owners may not each receive the same exemption provided by or pursuant to this section for the same residence homestead in the same year. An eligible disabled person who is 65 or older may not receive both a disabled and an elderly residence homestead exemption but may choose either. A person may not receive an exemption under this section for more than one residence homestead in the same year.

SECTION 2. Sections 11.26(a) and (j), Tax Code, are amended to read as follows:

(a) The tax officials shall appraise the property to which this section applies and calculate taxes as on other property, but if the tax so calculated exceeds the limitation imposed by this section, the tax imposed is the amount of the tax as limited by this section, except as otherwise provided by this section. A school district may not increase the total annual amount of ad valorem tax it imposes on the residence homestead of an individual 65 years or older above the amount of the tax it imposed in the first tax year in which the individual qualified that residence homestead for the exemption provided by Section 11.13(c) for an individual 65 years of age or older. [~~If the~~

~~individual qualified that residence homestead for the exemption after the beginning of that first year, the maximum amount of taxes that a school district may impose on that residence homestead in a subsequent year is determined as provided by Section 26.112 as if the individual qualified that residence homestead for the exemption for that entire first year, except as provided by Subsection (b).~~] If the individual qualified that residence homestead for the exemption after the beginning of that first year and the residence homestead remains eligible for the exemption for the next year, and if the school district taxes imposed on the residence homestead in the next year are less than the amount of taxes imposed in that first year, a school district may not subsequently increase the total annual amount of ad valorem taxes it imposes on the residence homestead above the amount it imposed in the year immediately following the first year for which the individual qualified that residence homestead for the exemption, except as provided by Subsection (b). If the first tax year the individual qualified the residence homestead for the exemption provided by Section 11.13(c) was a tax year before the 1997 tax year, the amount of the limitation provided by this section is the amount of tax the school district imposed for the 1996 tax year less an amount equal to the amount determined by multiplying $10,000 times the tax rate of the school district for the 1997 tax year, plus any 1997 tax attributable to improvements made in 1996, other than improvements made to comply with governmental regulations or repairs.

(j) If an individual who qualifies for an exemption provided by Section 11.13(c) for an individual 65 years of age or older dies in the first year in which the individual qualified for the exemption and the individual first qualified for the exemption after the beginning of that year, except as provided by Subsection (k), the amount to which the surviving spouse's school district taxes are limited under Subsection (i) is the amount of school district taxes imposed on the residence homestead in that year determined [~~calculated under Section 26.112~~] as if the individual qualifying for the exemption had lived for the entire year.

SECTION 3. Section 11.42, Tax Code, is amended to read as follows:

Sec. 11.42. EXEMPTION QUALIFICATION DATE. (a) Except as provided by Subsections [~~Subsection~~] (b) and (c) and by Sections 11.421, 11.422, 11.434, 11.435, and 11.436, eligibility for and amount of an exemption authorized by this chapter for any tax year are determined by a claimant's qualifications on January 1. A person who does not qualify for an exemption on January 1 of any year may not receive the exemption that year.

(b) An exemption authorized by Section 11.11 [~~or by Section 11.13(c) or (d) for an individual 65 years of age or older~~] is effective immediately on qualification for the exemption.

(c) An exemption authorized by Section 11.13(c) or (d) for an individual 65 years of age or older is effective as of January 1 of the tax year in which the person qualifies for the exemption and applies to the entire tax year.

(d) A person who acquires property after January 1 of a tax year may receive an exemption authorized by Section 11.17, 11.18, 11.19, 11.20, 11.21, 11.23, or 11.30 for the applicable portion of that tax year immediately on qualification for the exemption.

SECTION 4. Section 11.43(d), Tax Code, as amended by Chapters 1039, 1059, and 1155, Acts of the 75th Legislature, Regular Session, 1997, is reenacted and amended to read as follows:

(d) To receive an exemption the eligibility for which is determined by the claimant's qualifications on January 1 of the tax year, a person required to claim an exemption must file a completed exemption application form before May 1 and must furnish the information required by the form. A person who after January 1 of a tax year acquires property that qualifies for an exemption covered by Section 11.42(d) [~~11.42(c)~~] must apply for the exemption for the applicable portion of that tax year before the first anniversary of the date the person acquires the property. For good cause shown the chief appraiser may extend the deadline for filing an exemption application by written order for a single period not to exceed 60 days.

SECTION 5. Section 11.43(k), Tax Code, is amended to read as follows:

(k) A person who qualifies for the exemption authorized by Section 11.13(c) or (d) for an individual 65 years of age or older [~~for a portion of a tax year~~] must apply for the exemption no later than the first anniversary of the date the person qualified for the exemption.

SECTION 6. Section 25.06, Tax Code, is amended to read as follows:

Sec. 25.06. PROPERTY ENCUMBERED BY POSSESSORY OR SECURITY INTEREST. (a) Except as provided by Section 25.07 [~~of this code~~], property encumbered by a leasehold or other possessory interest or by a mortgage, deed of trust, or other interest securing payment or performance of an obligation shall be listed in the name of the owner of the property so encumbered.

(b) Except as otherwise directed in writing under Section 1.111(f), real property that is subject to an installment contract of sale shall be listed in the name of the seller if the installment contract is not filed of record in the real property records of the county.

SECTION 7. Chapter 21, Tax Code, is amended by adding Section 21.055 to read as follows:

Sec. 21.055. BUSINESS AIRCRAFT. (a) If an aircraft is used for a business purpose of the owner, is taxable by a taxing unit, and is used continually outside this state, whether regularly or irregularly, the appraisal office shall allocate to this state the portion of the fair market value of the aircraft that fairly reflects its use in this state. The appraisal office shall not allocate to this state the portion of the total market value of the aircraft that fairly reflects its use beyond the boundaries of this state.

(b) The allocable portion of the total fair market value of an aircraft described by Subsection (a) is presumed to be the fair market value of the aircraft multiplied by a fraction, the numerator of which is the number of departures by the aircraft from a location in this state during the year preceding the tax year and the denominator of which is the total number of departures by the aircraft from all locations during the year preceding the tax year.

(c) This section does not apply to a commercial aircraft as defined by Section 21.05.

SECTION 8. Section 26.112, Tax Code, is amended to read as follows:

Sec. 26.112. CALCULATION OF TAXES ON [~~PRORATING TAXES—QUALIFICATION BY ELDERLY PERSON FOR 65 OR OVER~~] RESIDENCE HOMESTEAD OF ELDERLY PERSON [~~EXEMPTION~~]. (a) If at any time during a tax year property is owned by an individual who qualifies for an [~~the~~] exemption under Section 11.13(c) or (d) for an individual 65 years of age or older [~~after the beginning of a tax year~~], the amount of the tax [~~taxes~~] due on the property [~~residence homestead of the individual~~] for the tax year is calculated as if the person qualified for the exemption on January 1 and continued to qualify for the exemption for the remainder of the tax year.

(b) If property is the residence homestead of more than one individual during a tax year and any of those individuals qualify for an exemption under Section 11.13(c) or (d) for an individual 65 years of age or older with respect to the property, the amount of the tax due on the property for the tax year is calculated as if that individual owned the property for the entire tax year.

(c) If a person qualifies for an exemption under Section 11.13(c) or (d) for an individual 65 years of age or older with respect to the property after the amount of the tax due on the property is calculated and the effect of the qualification is to reduce the amount of the tax due on the property, the assessor for each taxing unit shall recalculate the amount of the tax due on the property and correct the tax roll. If the tax bill has been mailed and the tax on the property has not been paid, the assessor shall mail a corrected tax bill to the person in whose name the property is listed on the tax roll or to the person's authorized agent. If the tax on the property has been paid, the tax collector for the taxing unit shall refund to the person who paid the tax the amount by which the payment exceeded the tax due. [~~by:~~

[~~(1) subtracting:~~

[~~(A) the amount of the taxes that otherwise would be imposed on the residence homestead for the entire year had the individual qualified for the residence homestead exemption on January 1; from~~

[~~(B) the amount of the taxes that otherwise would be imposed on the residence homestead for the entire year had the individual not qualified for the residence homestead exemption;~~

[~~(2) multiplying the remainder determined under Subdivision (1) by a fraction, the denominator of which is 365 and the numerator of which is the number of days that elapsed prior to the date that the individual qualified for the exemption; and~~

[~~(3) adding the product determined under Subdivision (2) and the amount described by Subdivision (1)(A).~~]

SECTION 9. Section 26.113(a), Tax Code, is amended to read as follows:

(a) If a person acquires taxable property that qualifies for and is granted an exemption covered by Section 11.42(d) [~~11.42(c)~~] for a portion of the year in which the property was acquired, the amount of tax due on the property for that year is computed by multiplying the amount of taxes imposed on the property for the entire year as provided by Section 26.09 by a fraction, the denominator of which is 365 and the numerator of which is the number of days in that year before the date the property qualified for the exemption.

SECTION 10. Chapter 31, Tax Code, is amended by adding Section 31.081 to read as follows:

Sec. 31.081. PROPERTY TAX WITHHOLDING ON PURCHASE OF BUSINESS OR INVENTORY. (a) This section applies only to a person who purchases a business, an interest in a business, or the inventory of a business from a person who is liable under this title for the payment of taxes imposed on personal property used in the operation of that business.

(b) The purchaser shall withhold from the purchase price an amount sufficient to pay all of the taxes imposed on the personal property of the business, plus any penalties and interest incurred, until the seller provides the purchaser with:

(1) a receipt issued by each appropriate collector showing that the taxes due the applicable taxing unit, plus any penalties and interest, have been paid; or

(2) a tax certificate issued under Section 31.08 stating that no taxes, penalties, or interest is due the applicable taxing unit.

(c) A purchaser who fails to withhold the amount required by this section is liable for that amount to the applicable taxing units to the extent of the value of the purchase price, including the value of a promissory note given in consideration of the sale to the extent of the note's market value on the effective date of the purchase, regardless of whether the purchaser has been required to make any payments on that note.

(d) The purchaser may request each appropriate collector to issue a tax certificate under Section 31.08 or a statement of the amount of the taxes, penalties, and interest that are due to each taxing unit for which the collector collects taxes. The collector shall issue the certificate or statement before the 10th day after the date the request is made. If a collector does not timely provide or mail the certificate or statement to the purchaser, the purchaser is released from the duties and liabilities imposed by Subsections (b) and (c) in connection with taxes, penalties, and interest due the applicable taxing unit.

(e) An action to enforce a duty or liability imposed on a purchaser by Subsection (b) or (c) must be brought before the fourth anniversary of the effective date of the purchase. An action to enforce the purchaser's duty or liability is subject to a limitation plea by the purchaser as to any taxes that have been delinquent at least four years as of the date the collector issues the statement under Subsection (d).

(f) This section does not release a person who sells a business or the inventory of a business from any personal liability imposed on the person for the payment of taxes imposed on the personal property of the business or for penalties or interest on those taxes.

(g) For purposes of this section:

(1) a person is considered to have purchased a business if the person purchases the name of the business or the goodwill associated with the business; and

(2) a person is considered to have purchased the inventory of a business if the person purchases inventory of a business, the value of which is at least 50 percent of the value of the total inventory of the business on the date of the purchase.

SECTION 11. Section 32.01, Tax Code, is amended by redesignating existing Subsection (c) as Subsection (d) and by adding a new Subsection (c) to read as follows:

(c) If an owner's real property is described with certainty by metes and bounds in one or more instruments of conveyance and part of that property is the owner's residence homestead taxed separately and apart from the remainder of the property, each of the liens under this section that secures the taxes imposed on that homestead and on the remainder of that property extends in solido to all the real property described in the instrument or instruments of conveyance, unless the homestead is identified as a separate parcel and is separately described in the conveyance or another instrument recorded in the real property records.

(d) [~~(c)~~] The lien under this section is perfected on attachment and, except as provided by Section 32.03(b), perfection requires no further action by the taxing unit.

SECTION 12. Section 32.015(b), Tax Code, is amended to read as follows:

(b) The collector may simultaneously file notice of tax liens of all the taxing units served by the collector. However, notice of any lien for taxes for the preceding [~~prior~~] calendar year must be filed with the department before [~~prior to~~] September 1 of the following year. Any lien for which the notice is not filed by that [~~such~~] date is unenforceable against:

(1) a bona fide purchaser for value who is without notice or actual knowledge of the lien or the delinquent taxes for which the tax lien exists; or

(2) the holder of a lien recorded on the manufactured home document of title [~~extinguished and is not enforceable~~].

SECTION 13. Section 32.05(c), Tax Code, is amended to read as follows:

(c) A tax lien provided by this chapter is inferior to a claim:

(1) [~~claims~~] for any survivor's allowance, funeral expenses, or expenses of the last illness of a decedent made against the estate of a decedent as provided by law;

(2) under a[~~, or~~] recorded restrictive covenant [~~covenants~~] running with the land, other than a restrictive covenant in favor of a property owners' association or homeowners' association recorded before January 1 of the year the tax lien arose; or

(3) under a valid easement [~~easements~~] of record [~~which were~~] recorded before [~~prior to~~] January 1 of the year the tax lien arose.

SECTION 14. Section 32.07(e), Tax Code, is amended to read as follows:

(e) With respect to an ad valorem tax or other money subject to the provisions of Subsection (d), an individual who controls or supervises the collection of tax or money from another person, or an individual who controls or supervises the accounting for and paying over of the tax or money, and who wilfully fails to pay or cause to be paid the tax or money is liable as a responsible individual for an amount equal to the tax or money, plus all interest, penalties, and costs, not paid or caused to be paid. The liability imposed by this subsection is in addition to any other penalty provided by law. The dissolution of a corporation, association, limited liability company, or partnership does not affect a responsible individual's liability under this subsection.

SECTION 15. Section 32.07, Tax Code, is amended by adding Subsection (h) to read as follows:

(h) For purposes of Subsection (a), a person is considered to be an owner of property subject to an installment contract of sale if the person is:

(1) the seller of the property; or

(2) a purchaser of the property who has the duty under the installment contract to pay taxes on the property.

SECTION 16. Section 33.04, Tax Code, is amended to read as follows:

Sec. 33.04. NOTICE OF DELINQUENCY. (a) At least once each year the collector for a taxing unit shall deliver a notice of delinquency to each person whose name appears on the current delinquent tax roll. However, the notice need not be delivered if:

(1) a bill for the tax was not mailed under [~~pursuant to the authorization provided by~~] Section 31.01(f) [~~of this code~~]; or

(2) the collector does not know and by exercising reasonable diligence cannot determine the delinquent taxpayer's name and address.

(b) In addition to the notice required by Subsection (a) [~~of this section~~], the [~~tax~~] collector for each taxing unit in each year divisible by five shall deliver by mail a written notice of delinquency to:

(1) each person whose name and mailing address are listed on the most recent certified appraisal roll, if the taxes on the property of that person are shown on the collector's records as having [~~who owes a tax that has~~] been delinquent more than one year; and

(2) each person who owes a tax on personal property or an interest in a mineral estate that has been delinquent more than one year, if that property or mineral estate is not listed on the most recent certified appraisal roll under that person's name but that person's [~~whose~~] name and mailing address are known to the collector [~~or can be determined by the exercise of reasonable diligence~~].

(c) The collector [~~He~~] shall state in the notice required by Subsection (b) the amount of the delinquent tax, penalties, and interest due, the description of the property on which the tax was imposed, and the year for which the tax is delinquent. Each notice required by Subsection (b) to be delivered to [~~If~~] the same person [~~owes delinquent taxes~~] for more than one year or on more than one property[~~, the collector~~] may be included [~~include all the delinquent taxes the person owes~~] in a single notice.

(d) In a suit brought against a person entitled to receive notice under Subsection (b) for the collection of penalties [~~(c) Penalties~~] and interest on a tax delinquent more than five years or a multiple of five years, it is an affirmative defense available to the person that [~~are cancelled and may not be collected if~~] the collector did [~~has~~] not deliver [~~delivered~~] the notice required by Subsection (b) [~~of this section in each year that is divisible by five following the date on which the tax first became delinquent for one year~~].

(e) Notwithstanding Subsection (d), interest and penalties on a tax are reinstated and shall be collected by the collector if, subsequent to the collector's failure to deliver the notice required by Subsection (b), the collector delivers the notice in any subsequent year divisible by five. The interest and penalties on the tax are reinstated prospectively and begin to accrue at the rates provided by Section 33.01 on the first day of the first

month that begins at least 21 days after the date the collector delivers the subsequent notice.

(f) A notice under this section is presumed to be delivered when it is deposited in regular first-class mail, postage prepaid, and addressed to the appropriate person under Subsection (b). Notwithstanding Section 1.07, the presumption of delivery under this section may not be rebutted with evidence of failure to receive the notice.

SECTION 17. Section 33.07, Tax Code, is amended to read as follows:

Sec. 33.07. ADDITIONAL PENALTY FOR COLLECTION COSTS FOR TAXES DUE BEFORE JUNE 1. (a) A taxing unit or appraisal district may provide, in the manner required by law for official action by the body, that taxes that become delinquent on or after February 1 of a year but not later than May 1 of that year and that remain delinquent on July 1 of the year in which they become delinquent incur an additional penalty to defray costs of collection, if the unit or district or another unit that collects taxes for the unit has contracted with an attorney pursuant to Section 6.30 of this code. The amount of the penalty may not exceed 15 percent of the amount of taxes, penalty, and interest due.

(b) A tax lien attaches to the property on which the tax is imposed to secure payment of the penalty.

(c) If a penalty is imposed pursuant to this section, a taxing unit may not recover attorney's fees in a suit to collect delinquent taxes subject to the penalty.

(d) If a taxing unit or appraisal district provides for a penalty under this section, the collector shall deliver a notice of delinquency and of the penalty to the property owner at least 30 and not more than 60 days before July 1.

SECTION 18. Subchapter A, Chapter 33, Tax Code, is amended by adding Section 33.08 to read as follows:

Sec. 33.08. ADDITIONAL PENALTY FOR COLLECTION COSTS FOR TAXES DUE ON OR AFTER JUNE 1. (a) This section applies to a taxing unit or appraisal district only if:

(1) the governing body of the taxing unit or appraisal district has imposed the additional penalty for collection costs under Section 33.07; and

(2) the taxing unit or appraisal district, or another taxing unit that collects taxes for the unit, has entered into a contract with an attorney under Section 6.30 for the collection of the unit's delinquent taxes.

(b) The governing body of the taxing unit or appraisal district, in the manner required by law for official action, may provide that taxes that become delinquent on or after June 1 under Section 31.03, 31.031, 31.032, or 31.04 incur an additional penalty to defray costs of collection. The amount of the penalty may not exceed 15 percent of the amount of taxes, penalty, and interest due.

(c) After the taxes become delinquent, the collector for a taxing unit or appraisal district that has provided for the additional penalty under this section shall send a notice of the delinquency and the penalty to the property owner. The penalty is incurred on the first day of the first month that begins at least 21 days after the date the notice is sent.

(d) A tax lien attaches to the property on which the tax is imposed to secure payment of the additional penalty.

(e) A taxing unit or appraisal district that imposes the additional penalty under this section may not recover attorney's fees in a suit to collect delinquent taxes subject to the penalty.

SECTION 19. Section 33.43(a), Tax Code, is amended to read as follows:

(a) A petition initiating a suit to collect a delinquent property tax is sufficient if it alleges that:

(1) the taxing unit is legally constituted and authorized to impose and collect ad valorem taxes on property;

(2) tax in a stated amount was legally imposed on each separately described property for each year specified and on each person named if known who owned the property on January 1 of the year for which the tax was imposed;

(3) the tax was imposed in the county in which the suit is filed;

(4) the tax is delinquent;

(5) penalties, interest, and costs authorized by law in a stated amount for each separately assessed property are due;

(6) the taxing unit is entitled to recover [~~taxes imposed on the property for the current tax year and each subsequent tax year until the property is sold under Section 34.01 or 34.015, as applicable, prorated to the date of the sale, and~~] each penalty that is incurred and all interest that accrues on delinquent taxes imposed on the property from the date of the judgment to the date of the sale under Section 34.01 or 34.015, as applicable, if the suit seeks to foreclose a tax lien;

(7) the person sued owned the property on January 1 of the year for which the tax was imposed if the suit seeks to enforce personal liability;

(8) the person sued owns the property when the suit is filed if the suit seeks to foreclose a tax lien;

(9) the taxing unit asserts a lien on each separately described property to secure the payment of all taxes, penalties, interest, and costs due if the suit seeks to foreclose a tax lien;

(10) all things required by law to be done have been done properly by the appropriate officials; and

(11) the attorney signing the petition is legally authorized to prosecute the suit on behalf of the taxing unit.

SECTION 20. Section 33.47(a), Tax Code, is amended to read as follows:

(a) In a suit to collect a delinquent tax, the taxing unit's current tax roll and delinquent tax roll or certified copies of the entries showing the property and the amount of the tax and penalties imposed and interest accrued constitute prima facie evidence that each person charged with a duty relating to the imposition of the tax has complied with all requirements of law and that the amount of tax alleged to be delinquent against the property and the amount of penalties and interest due on that tax as listed are the correct amounts [~~is the correct amount~~].

SECTION 21. Section 33.50, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) The order of sale shall also specify that the property may not be sold to a person owning an interest in the property or to a person who is a party to the suit other than a taxing unit unless:

(1) that person is the highest bidder at the tax sale; and

(2) the amount bid by that person is equal to or greater than the aggregate amount of the judgments against the property, including all costs of suit and sale.

SECTION 22. Section 33.52, Tax Code, as amended by Chapters 906, 981, and 1111, Acts of the 75th Legislature, Regular Session, 1997, is reenacted and amended to read as follows:

Sec. 33.52. TAXES INCLUDED IN JUDGMENT [~~FOR CURRENT TAXES~~]. (a) Only taxes that are delinquent on the date of a judgment may be included in the amount recoverable under the judgment by the taxing units that are parties to the suit [~~If the court orders the foreclosure of a tax lien and the sale of real property, the judgment may include foreclosure on any unpaid tax on the property for the current year~~].

(b) In lieu of stating as a liquidated amount the aggregate total of taxes, penalties, and interest due, a judgment may:

(1) set out the tax due each taxing unit for each year; and

(2) provide that penalties and interest accrue on the unpaid taxes as provided by Subchapter A [~~If the amount of tax for the current tax year has not been determined on the date of judgment, the court may order recovery of and foreclosure on the amount of tax imposed on the property for the preceding tax year~~].

(c) For purposes of calculating penalties and interest due under the judgment, it is presumed that the delinquency date for a tax is February 1 of the year following the year in which the tax was imposed, unless the judgment provides otherwise [~~If the judgment does not provide for recovery of taxes imposed for the current tax year, or for recovery of estimated taxes that cannot then be calculated for the current year, the real property is subject to the taxes for the current tax year and to the lien that secures those taxes, and any subsequent purchaser takes the property subject to those taxes and the tax lien~~].

(d) A taxing unit's claim for taxes that become delinquent after the date of the judgment is not affected by the entry of the judgment or a tax sale conducted under that judgment. Those taxes may be collected by any remedy provided by this title.

SECTION 23. Section 33.53, Tax Code, is amended to read as follows:

Sec. 33.53. ORDER OF SALE; PAYMENT BEFORE SALE. (a) If judgment in a suit to collect a delinquent tax is for foreclosure of a tax lien, the court shall order the property sold in satisfaction of the amount of the judgment.

(b) On application by a taxing unit that is a party to the judgment, the district clerk shall prepare an order to an officer authorized to conduct execution sales ordering the sale of the property. If more than one parcel of property is included in the judgment, the taxing unit may specify particular parcels to be sold. A taxing unit may request more than one order of sale as necessary to collect all amounts due under the judgment.

(c) An order of sale:

(1) shall be returned to the district clerk as unexecuted if not executed before the 181st day after the date the order is issued; and

(2) may be accompanied by a copy of the judgment and a bill of costs attached to the order and incorporate the terms of the judgment or bill of costs by reference.

(d) A judgment or a bill of costs attached to the order of sale is not required to be certified.

(e) If the owner pays the amount of the judgment before the property is sold, the taxing unit shall:

(1) release the tax lien held by the taxing unit on the property; and

(2) file for record with the clerk of the court in which the judgment was rendered a release of the lien.

SECTION 24. Section 34.01, Tax Code, is amended to read as follows:

Sec. 34.01. SALE OF PROPERTY. (a) Property seized or ordered sold pursuant to foreclosure of a tax lien shall be sold by the officer charged with selling the property, unless otherwise directed by the taxing unit that requested the order of sale or by an authorized agent or attorney for that unit. The sale shall be conducted in the manner similar property is sold under execution except as otherwise provided by this subtitle [~~subchapter~~].

(b) On receipt of an order of sale of real property, the officer charged with selling the property shall endorse on the order the date and exact time when the officer received the order. The endorsement is a levy on the property without necessity for going upon the ground. The officer shall calculate the total amount due under the judgment, including all taxes, penalties, and interest, plus any other amount awarded by the judgment, court costs, and the costs of the sale, including the costs of advertising. To assist the officer in making the calculation, the collector of any taxing unit that is party to the judgment may provide the officer with a certified tax statement showing the amount due that taxing unit as of the date of the proposed sale. If a certified tax statement is provided to the officer, the officer shall rely on the amount included in the statement and is not responsible or liable for the accuracy of the applicable portion of the calculation.

(c) The officer charged with the sale shall give written notice of the sale in the manner prescribed by Rule 21a, Texas Rules of Civil Procedure, as amended, or that rule's successor to each person who was a defendant to the judgment or that person's attorney.

(d) An officer's failure to send the written notice of sale or a defendant's failure to receive that notice is insufficient by itself to invalidate:

(1) the sale of the property; or

(2) the title conveyed by that sale.

(e) A notice of sale under Subsection (c) must substantially comply with this subsection. The notice must include:

(1) a statement of the authority under which the sale is to be made;

(2) the date, time, and location of the sale; and

(3) a brief description of the property to be sold.

(f) A notice of sale is not required to include field notes describing the property. A description of the property is sufficient if the notice:

(1) states the number of acres and identifies the original survey;

(2) as to property located in a platted subdivision or addition, regardless of whether the subdivision or addition is recorded, states the name

by which the land is generally known with reference to that subdivision or addition; or

(3) by reference adopts the description of the property contained in the judgment.

(g) For publishing a notice of sale, a newspaper may charge a rate that does not exceed the greater of:

(1) two cents per word; or

(2) an amount equal to the published word or line rate of that newspaper for the same class of advertising.

(h) If there is not a newspaper published in the county of the sale, or a newspaper that will publish the notice of sale for the rate authorized by Subsection (g), the officer shall post the notice in writing in three public places in the county not later than the 20th day before the date of the sale. One of the notices must be posted at the door of the county courthouse.

(i) The owner of real property subject to sale may file with the officer charged with the sale a written request that the property be divided and that only as many portions be sold as [~~is~~] necessary to pay the amount [~~tax, penalties, interest, and costs adjudged~~] due against the property, as calculated under Subsection (b). In the request the owner shall describe the desired portions and shall specify the order in which the portions should be sold. The owner may not specify more than four portions or a portion that divides a building or other contiguous improvement. The request must be delivered to the officer not later than the seventh day before the date of the sale.

(j) [~~(c)~~] If a [~~sufficient~~] bid sufficient to pay the lesser of the amount calculated under Subsection (b) or the adjudged value is not received, the taxing unit that requested the order of sale may terminate the sale. If the taxing unit does not terminate the sale, the officer making the sale shall bid the property off to the [~~a~~] taxing unit that requested the order of sale, unless otherwise agreed by each other taxing unit that is a party to the judgment, for the aggregate amount of the judgment against the property or for the market value of the property as specified in the judgment, whichever is less. The duty of the officer conducting the sale to bid off the property to a taxing unit under this subsection is self-executing. The actual attendance of a representative of the taxing unit at the sale is not a prerequisite to that duty.

(k) The taxing unit to which the property is bid off takes title to the property for the use and benefit of itself and all other taxing units that established tax liens in the suit. The taxing unit's title includes all the interest owned by the defendant, including the defendant's right to the use and possession of the property, subject only to the defendant's right of redemption. Payments in satisfaction of the judgment and any costs or expenses of the sale may not be required of the purchasing taxing unit until the property is redeemed or resold by the purchasing taxing unit.

(l) Notwithstanding that property is bid off to a taxing unit under this section, a taxing unit that established a tax lien in the suit may continue to enforce collection of any amount for which a former owner of the property is liable to the taxing unit, including any post-judgment taxes, penalties, and interest, in any other manner provided by law.

(m) [~~(d)~~] The officer making the sale shall prepare a deed to the purchaser

of real property at the sale, [~~or~~] to any other person whom the purchaser may specify, or to the taxing unit to which the property was bid off. The taxing unit that requested the order of sale may elect to prepare a deed for execution by the officer. The officer shall execute the deed and either file the deed for recording with the county clerk or deliver the executed deed to the taxing unit that requested the order of sale, which shall file the deed for recording with the county clerk. The county clerk shall file and record each deed filed under this subsection and after recording shall return the deed to the grantee.

(n) The deed vests good and perfect title in the purchaser or the purchaser's assigns to the interest owned by the defendant in the property subject to the foreclosure, including the defendant's right to the use and possession of the property, subject only to the defendant's right of redemption, the terms of a recorded restrictive covenant [~~covenants~~] running with the land that was recorded before January 1 of the year in which the tax lien on the property arose, a recorded lien that arose under that restrictive covenant that was not extinguished in the judgment foreclosing the tax lien, and each valid easement [~~easements~~] of record as of the date of the sale that was[~~, if such covenants or easements were~~] recorded before [~~prior to~~] January 1 of the year the tax lien arose. The deed may be impeached only for fraud.

(o) [~~(e)~~] Notwithstanding Subsection (j) [~~(c)~~], if a sufficient bid is not received, the officer making the sale may bid off property seized under Subchapter E, Chapter 33, [~~off~~] to a person described by Section 11.181 for less than the tax warrant amount or the market value of the property. Consent to the sale by the taxing units entitled to receive proceeds of the sale is not required.

(p) [~~(f)~~] Except as provided by [~~in~~] Subsection (o) [~~(e)~~], property seized under Subchapter E, Chapter 33, may not be sold for an amount that is less than the lesser of the market value of the property or the total amount of taxes due on the property. A taxing unit that takes title to property seized under that subchapter takes title to the property for the use and benefit of that taxing unit and all other taxing units that established tax liens in the suit or that, on the date of the seizure, were owed delinquent taxes on the property.

(q) A sale of property under this section to a purchaser other than a taxing unit:

(1) extinguishes each lien securing payment of the delinquent taxes, penalties, and interest against that property and included in the judgment; and

(2) does not affect the personal liability of any person for those taxes, penalties, and interest included in the judgment that are not satisfied from the proceeds of the sale.

(r) A sale of real property under this section must take place at the county courthouse in the county in which the land is located. The sale shall occur in the same location in the courthouse that is designated by the commissioners court of the county for the sale of real property under Section 51.002, Property Code.

(s) To the extent of a conflict between this section and a provision of the Texas Rules of Civil Procedure that relates to an execution, this section controls.

SECTION 25. Section 34.02, Tax Code, is amended to read as follows:

Sec. 34.02. DISTRIBUTION OF PROCEEDS. (a) The proceeds of a tax sale under Section 33.94 or 34.01 shall be applied in the order prescribed by Subsection (b) [~~first to the payment of costs~~]. The amount included under each subdivision of Subsection (b) must be fully paid before any of the proceeds may be applied to the amount included under a subsequent subdivision [~~The remainder shall be distributed to all taxing units participating in the sale in satisfaction of the taxes, penalties, and interest due each~~].

(b) The proceeds shall be applied to:

(1) all costs of advertising the tax sale and all original court costs payable to the clerk of the court;

(2) all fees and commissions payable to the officer conducting the sale;

(3) taxes, penalties, and interest that are due under the judgment; and

(4) any other amount awarded to a taxing unit under the judgment.

(c) If the proceeds are not sufficient to pay the total amount included under any subdivision of Subsection (b) [~~costs and taxes, penalties, and interest due all participants in the sale~~], each participant in the amount included under that subdivision is entitled to a share of the proceeds [~~after payment of costs~~] in an amount equal to the proportion its entitlement bears [~~taxes, penalties, and interest bear~~] to the total amount included under that subdivision [~~of taxes, penalties, and interest due all participants in the sale~~].

(d) [~~(c)~~] If the sale is pursuant to foreclosure of a tax lien, the officer conducting the sale shall pay any excess proceeds after payment of all amounts [~~costs and of all taxes, penalties, and interest~~] due all participants in the sale as specified by Subsection (b) to the clerk of the court issuing the order of sale.

(e) [~~(d)~~] If the sale is pursuant to seizure of personal property, the officer conducting the sale shall distribute any excess of proceeds as provided by law for excess proceeds in the case of execution.

(f) [~~(e)~~] In this section, "taxes" includes a charge, fee, or expense that is expressly authorized by Section 32.06 or 32.065.

SECTION 26. Section 34.04, Tax Code, is amended to read as follows:

Sec. 34.04. CLAIMS FOR EXCESS PROCEEDS. (a) A person, including a taxing unit, may file a petition in the court that ordered the seizure or sale setting forth a claim to the excess proceeds. The petition must be filed before the second anniversary of [~~within seven years from~~] the date of the sale of the property. The petition is not required to be filed as an original suit separate from the underlying suit for seizure of the property or foreclosure of a tax lien on the property but may be filed under the cause number of the underlying suit.

(b) A copy of the petition shall be served, in the manner prescribed by Rule 21a, Texas Rules of Civil Procedure, as amended, or that rule's successor, on [~~the county attorney or, if there is no county attorney, the district attorney and on~~] all parties to the underlying action [~~suit that ordered the sale, if any,~~] not later than the 20th day before the date set for a hearing on the petition.

(c) At the hearing [~~if~~] the court [~~finds that the claimant is entitled to~~

~~recover the excess proceeds, it~~] shall order that the proceeds be paid according to the following priorities to each party that establishes its claim to the proceeds:

(1) to a taxing unit for any taxes, penalties, or interest that have become due or delinquent on the subject property subsequent to the date of the judgment;

(2) to any other lienholder, consensual or otherwise, for the amount due under a lien, in accordance with the priorities established by applicable law;

(3) to a taxing unit for any unpaid taxes, penalties, interest, or other amounts adjudged due under the judgment that were not satisfied from the proceeds from the tax sale; and

(4) to each owner of the property [~~him~~].

(d) Interest or costs may not be allowed under this section.

[~~(d) A claim for the excess proceeds may not be filed after the expiration of seven years from the date the property is sold.~~]

SECTION 27. Section 34.05(a), Tax Code, as amended by Chapters 906 and 1111, Acts of the 75th Legislature, Regular Session, 1997, is reenacted to read as follows:

(a) If property is sold to a taxing unit that is a party to the judgment, the taxing unit may sell the property at any time by public or private sale. In selling the property, the taxing unit may, but is not required to, use the procedures provided by Section 263.001, Local Government Code, or Section 272.001, Local Government Code. The sale is subject to any right of redemption of the former owner. The redemption period begins on the date the deed to the taxing unit is filed for record.

SECTION 28. Sections 34.05(c) and (d), Tax Code, are amended to read as follows:

(c) The taxing unit purchasing the property by resolution of its governing body may request the sheriff or a constable to sell the property at a public sale. If the purchasing taxing unit has not sold the property within six months after the date on which the owner's right of redemption terminates, any taxing unit that is entitled to receive proceeds of the sale by resolution of its governing body may request the sheriff or a constable in writing to sell the property at a public sale. On receipt of a request made under this subsection, the sheriff or constable shall sell the property as provided by Subsection (d) [~~of this section~~], unless the property is sold under [~~pursuant to~~] Subsection (h) or (i) [~~of this section~~] before the date set for the public sale.

(d) Except as provided by this subsection, all public sales requested as provided by Subsection (c) [~~of this section~~] shall be conducted in the manner prescribed by the Texas Rules of Civil Procedure for the sale of property under execution. The notice of the sale must contain a description of the property to be sold, which must be a legal description in the case of real property, the number and style of the suit under which the property was sold at the tax foreclosure sale, and the date of the tax foreclosure sale. If the commissioners court of a county by order specifies the date or time at which or location in the county where a public sale requested under Subsection (c)

shall be conducted, the sale shall be conducted on the date and at the time and location specified in the order. The acceptance of a bid by the officer conducting the sale is conclusive and binding on the question of its sufficiency. An action to set aside the sale on the grounds that the bid is insufficient may not be sustained in court, except that a taxing unit that participates in distribution of proceeds of the sale may file an action before the first anniversary of [~~within one year after~~] the date of the sale to set aside the sale on the grounds of fraud or collusion between the officer making the sale and the purchaser. On conclusion of the sale, the officer making the sale shall prepare a deed to the purchaser. The taxing unit that requested the sale may elect to prepare a deed for execution by the officer. The officer shall execute the deed and either file the deed for recording with the county clerk or deliver the executed deed to the taxing unit that requested the sale, which shall file the deed for recording with the county clerk. The county clerk shall file and record each deed under this subsection and after recording shall return the deed to the grantee.

SECTION 29. Section 34.05(h), Tax Code, as added by Chapter 712, Acts of the 75th Legislature, Regular Session, 1997, is redesignated as Section 34.05(g), Tax Code, and amended to read as follows:

(g) [~~(h)~~] A taxing unit to which property is bid off [~~in~~] may recover its costs of upkeep, maintenance, and environmental cleanup from the resale proceeds without further court order.

SECTION 30. Section 34.06, Tax Code, is amended by amending Subsections (b) and (c) and adding Subsections (d), (e), and (f) to read as follows:

(b) The [~~purchasing taxing unit shall pay all costs and expenses of court, sale, and resale and, after deducting an amount equal to the amount the taxing unit has reasonably spent for the maintenance and preservation of the property, shall distribute the remainder of the~~] proceeds of the resale shall be distributed as required by Subsections (c)-(e).

(c) The purchasing taxing unit shall first retain an amount from the proceeds to reimburse the unit for reasonable costs, as defined by Section 34.21, incurred by the unit for:

(1) maintaining, preserving, and safekeeping the property;

(2) marketing the property for resale; and

(3) costs described by Subsection (f).

(d) After retaining the amount authorized by Subsection (c), the purchasing taxing unit shall then pay all costs of:

(1) the officer conducting the sale of the property; and

(2) the clerk of the court in connection with the suit and the sale of the property.

(e) After making the distribution under Subsection (d), any remaining balance of the proceeds shall be paid to each taxing unit participating in the sale in an amount equal to the proportion each participant's taxes, penalties, and interest bear to the total amount of taxes, penalties, and interest adjudged to be due all participants in the sale[~~, less any amounts previously paid as costs on the property as defined under Section 34.21(i)~~].

(f) The [~~(c) Notwithstanding Subsection (b), the~~] purchasing taxing unit

is entitled to recover from the proceeds of a resale of the property any cost incurred by the taxing unit in inspecting the property to determine whether there is a release or threatened release of solid waste from the property in violation of Chapter 361, Health and Safety Code, or a rule adopted or permit or order issued by the Texas Natural Resource Conservation Commission under that chapter, or a discharge or threatened discharge of waste or a pollutant into or adjacent to water in this state from a point of discharge on the property in violation of Chapter 26, Water Code, or a rule adopted or permit or order issued by the commission under that chapter, and in taking action to remove or remediate the release or threatened release or discharge or threatened discharge regardless of whether the taxing unit:

(1) was required by law to incur the cost; or

(2) obtained the consent of each taxing unit entitled to receive proceeds of the sale under the judgment of foreclosure to incur the cost.

SECTION 31. Section 34.07, Tax Code, is amended to read as follows:

Sec. 34.07. SUBROGATION OF PURCHASER AT VOID SALE. (a) The purchaser at a void or defective tax sale or tax resale is subrogated to the rights of the taxing unit in whose behalf the property was sold or resold to the same extent a purchaser at a void or defective sale conducted in behalf of a judgment creditor is subrogated to the rights of the judgment creditor.

(b) Except as provided by Subsection (c) [~~of this section~~], the purchaser at a void or defective tax sale or tax resale is subrogated to the tax lien of the taxing unit in whose behalf the property was sold or resold to the same extent a purchaser at a void or defective mortgage or other lien foreclosure sale is subrogated to the lien of the lienholder, and the purchaser is entitled to a reforeclosure of the lien to which the purchaser [~~he~~] is subrogated.

(c) If the purchaser at a void or defective tax sale or tax resale paid less than the total amount of the judgment against the property, the purchaser [~~he~~] is subrogated to the tax lien only in the amount the purchaser [~~he~~] paid at the sale or resale.

(d) In lieu of pursuing the subrogation rights provided by this section to which a purchaser [~~he~~] is subrogated, a purchaser at a void tax sale may elect to file an action against the taxing units to which the proceeds of the sale were distributed to recover the amount paid at the sale. A purchaser who files a suit authorized by this subsection waives all rights of subrogation [~~to which he would~~] otherwise provided by this section [~~be subrogated~~].

(e) If the purchaser prevails in a suit filed under Subsection (d), the court shall expressly provide in its final judgment that:

(1) the tax sale is vacated and set aside; and

(2) any lien on the property extinguished by the tax sale is reinstated on the property effective as of the date on which the lien originally attached to the property.

SECTION 32. Section 34.08(b), Tax Code, is amended to read as follows:

(b) A person may not commence an action challenging the validity of a tax sale after the time set forth in Section 33.54(a)(1) or (2), as applicable to the property, against a subsequent purchaser for value who acquired the property in reliance on the tax sale. The purchaser may conclusively presume that the tax sale was valid and shall have full title to the property

free and clear of the right, title, and interest of any person that arose before the tax sale, subject only to recorded restrictive covenants and valid easements of record set forth in Section 34.01(n) [~~34.01(d)~~] and subject to applicable rights of redemption.

SECTION 33. Section 34.21, Tax Code, as amended by Chapters 906, 914, and 1111, Acts of the 75th Legislature, Regular Session, 1997, is reenacted and amended to read as follows:

Sec. 34.21. RIGHT OF REDEMPTION. (a) The owner of real property sold at a tax sale to a purchaser other than a taxing unit [~~and~~] that was used as the residence homestead of the owner or that was land designated for agricultural use when [~~judgment in~~] the suit or the application for the warrant [~~to collect the tax~~] was filed [~~rendered or when the tax warrant was issued~~] may redeem the property on or before the second anniversary of [~~within two years after~~] the date on which the purchaser's deed is filed for record by paying the purchaser the amount the purchaser bid for the property, the amount of the deed recording fee, and the amount paid by the purchaser as taxes, penalties, interest, and costs on the property, plus a redemption premium of 25 percent of the aggregate total if the property is redeemed during the first year of the redemption period or 50 percent of the aggregate total if the property is redeemed during the second year of the redemption period.

(b) If property that was used as the owner's residence homestead or was land designated for agricultural use when the suit or the application for the warrant [~~to collect the tax~~] was filed is bid off to a taxing unit under Section 34.01(j) [~~34.01(c)~~] and has not been resold by the taxing unit, the owner having a right of redemption may redeem the property on or before the second anniversary of [~~within two years after~~] the date on which the deed of the taxing unit is filed for record by paying the taxing unit the lesser of the amount of the judgment against the property or the market value of the property as specified in that judgment, [~~whichever is less,~~] plus the amount of the fee for filing the taxing unit's deed and the amount spent [~~expended~~] by the taxing unit as costs on the property.

(c) If real property that was used as the owner's residence homestead or was land designated for agricultural use when the suit or the application for the warrant [~~to collect the tax~~] was filed has been resold by the taxing unit under Section 34.05, the owner of the property having a right of redemption may redeem the property on or before the second anniversary of [~~within two years after~~] the date on which the taxing unit files for record the deed from the sheriff or constable by paying the person who purchased the property from the taxing unit the amount the purchaser paid for the property, the amount of the fee for filing the purchaser's deed for record, the amount paid by the purchaser as taxes, penalties, interest, and costs on the property, plus a redemption premium of 25 percent of the aggregate total if the property is redeemed in the first year of the redemption period or 50 percent of the aggregate total if the property is redeemed in the second year of the redemption period.

(d) If the amount paid by the owner of the property under Subsection (c) is less than the amount of the judgment under which the property was sold,

the owner shall pay to the taxing unit to which the property was bid off under Section 34.01 an amount equal to the difference between the amount paid under Subsection (c) and the amount of the judgment. The taxing unit shall issue a receipt for a payment received under this subsection and shall distribute the amount received to each taxing unit that participated in the judgment and sale in an amount proportional to the unit's share of the total amount of the aggregate judgments of the participating taxing units. The owner of the property shall deliver the receipt received from the taxing unit to the person from whom the property is redeemed.

(e) The owner of real property sold at a tax sale other than property that was used as the residence homestead of the owner or that was land designated for agricultural use when the suit or the application for the warrant [~~to collect the tax~~] was filed may redeem the property in the same manner and by paying the same amounts as prescribed by Subsection (a), (b), [~~or~~] (c), or (d), as applicable, except that:

(1) the owner's right of redemption may be exercised not [~~no~~] later than the 180th day [~~180 days~~] following the date on which the purchaser's or taxing unit's deed is filed for record; and

(2) the redemption premium payable by the owner to a purchaser other than a taxing unit may [~~shall~~] not exceed 25 percent.

(f) [~~(e)~~] If the owner of the real property makes an affidavit that the owner has made diligent search in the county in which the property is located for the purchaser at the tax sale or for the purchaser at resale, and has failed to find the purchaser, that the purchaser is not a resident of the county in which the property is located, that the owner and the purchaser cannot agree on the amount of redemption money due, or that the purchaser refuses to give the owner a quitclaim deed to the property, the owner may redeem the land by paying the required amount as prescribed by this section to the assessor-collector for the county in which the property described has been redeemed. The assessor-collector receiving the payment shall give the owner a signed receipt witnessed by two persons. The receipt, when recorded, is notice to all persons that the property described has been redeemed. The assessor-collector shall on demand pay the money received by the assessor-collector to the purchaser.

(g) [~~(e)~~] In this section:

(1) "Land designated for agricultural [~~Agricultural~~] use" means land for which an application for appraisal under Subchapter C or D, Chapter 23, has been finally approved [~~the meaning assigned by Section 23.51~~].

(2) "Costs" includes the amount reasonably spent by the purchaser for maintaining, preserving, [~~the maintenance, preservation,~~] and safekeeping [~~of~~] the property, including the cost of:

(A) property insurance;

(B) repairs or improvements required by a local ordinance or building code or by a lease of the property in effect on the date of the sale;

(C) discharging a lien imposed by a municipality to secure expenses incurred by the municipality in remedying a health or safety hazard on the property;

(D) dues or assessments for maintenance paid to a property

owners' association under a recorded restrictive covenant to which the property is subject; and

(E) impact or standby fees imposed under the Local Government Code or Water Code and paid to a political subdivision.

(3) "Purchaser" includes a taxing unit to which property is bid off under Section 34.01 [~~34.01(c)~~].

(4) "Residence homestead" has the meaning assigned by Section 11.13.

(h) [~~(f)~~] The right of redemption does not grant or reserve in the former owner of the real property the right to the use or possession of the property, or to receive rents, income, or other benefits from the property while the right of redemption exists.

(i) The owner of property who is entitled to redeem the property under this section may request that the purchaser of the property, or the taxing unit to which the property was bid off, provide that owner a written itemization of all amounts spent by the purchaser or taxing unit in costs on the property. The owner must make the request in writing and send the request to the purchaser at the address shown for the purchaser in the purchaser's deed for the property, or to the business address of the collector for the taxing unit, as applicable. The purchaser or the collector shall itemize all amounts spent on the property in costs and deliver the itemization in writing to the owner not later than the 10th day after the date the written request is received. Delivery of the itemization to the owner may be made by depositing the document in the United States mail, postage prepaid, addressed to the owner at the address provided in the owner's written request. Only those amounts included in the itemization provided to the owner may be allowed as costs for purposes of redemption.

(j) A quitclaim deed to an owner redeeming property under this section is not notice of an unrecorded instrument. The grantee of a quitclaim deed and a successor or assign of the grantee may be a bona fide purchaser in good faith for value under recording laws.

[~~(g) In this section, "residence homestead" has the meaning assigned by Section 11.13.~~

[~~(h) In this section, "agricultural use" has the meaning assigned by Section 23.51.~~

[~~(i) In this section, "costs" is defined to include all those amounts reasonably expended by a purchaser or taxing unit in the maintenance, preservation, and safekeeping of the property, including but not limited to:~~

[~~(1) insurance against fire, flood, and other hazards;~~

[~~(2) repairs and improvements required by local ordinance, building code, or by the terms of any existing lease of the property, whether written or oral;~~

[~~(3) discharge of mowing, cleaning, or demolition liens against the property that secure expenses incurred by a municipality;~~

[~~(4) dues, assessments for maintenance, or liens provided by recorded restrictive covenants affecting the property and payable to a property owner's association; and~~

[~~(5) standby fees payable to a water district, fresh water supply district, or other municipality as authorized by law.~~]

SECTION 34. Section 42.031(b), Tax Code, is amended to read as follows:

(b) A taxing unit may not intervene in or in any other manner be made a party, whether as defendant or otherwise, to an appeal of an order of the appraisal review board determining a taxpayer protest under Subchapter C, Chapter 41, if the appeal was brought by the property owner.

SECTION 35. Section 49.231, Water Code, is amended by amending Subsections (j)-(l) and adding Subsections (o) and (p) to read as follows:

(j) The board may:

(1) charge interest, at the rate of one percent a month, on a standby fee not paid in a timely manner in accordance with the resolution or order imposing the standby fee; [~~and~~]

(2) impose a penalty in connection with a standby fee that is not paid in a timely manner in accordance with the resolution or order imposing the standby fee; and

(3) refuse to provide potable water, sanitary sewer, or drainage service to the property for which the fee was assessed until all delinquent standby fees on the property, [~~and~~] interest on those fees, and all penalties imposed in connection with the delinquent standby fees are fully paid.

(k) A standby fee imposed under this section is a personal obligation of the person owning the undeveloped property on January 1 of the year for which the fee is assessed. A person is not relieved of the obligation on transfer of title to the property. On January 1 of each year, a lien attaches to undeveloped property to secure payment of any standby fee, interest on the fee, and any penalty imposed under this section [~~and the interest, if any, on the fee~~]. The lien has the same priority as a lien for taxes of the district.

(l) If a standby fee imposed under this section is not paid in a timely manner, a district may file suit to foreclose the lien securing payment of the fee, [~~and~~] interest on the fee, and any penalty imposed in connection with the fee or to enforce the personal obligation for the fee, [~~and~~] interest on the fee, and any penalty imposed in connection with the fee [~~or both~~]. In [~~The district may recover, in~~] addition to the fee, [~~and~~] interest on the fee, and any penalty imposed, the district may recover reasonable costs, including attorney's fees, incurred by the district in enforcing the lien or obligation not to exceed 20 percent of the delinquent fee, [~~and~~] interest on the fee, and any penalty. A suit authorized by this subsection must be filed not later than the fourth anniversary of the date the fee became due. A fee delinquent for more than four years, [~~and~~] interest on the fee, and any penalty imposed are considered paid unless a suit is filed before the expiration of the four-year period.

(o) The amount of the penalty authorized by Subsection (j) is six percent of the amount of the standby fee for the first calendar month the standby fee is delinquent, plus an additional one percent of the amount of the fee for each of the subsequent four months, or portion of each of those months, the fee is unpaid, except that if the fee remains unpaid on the first day of the sixth month after the month in which the fee became due, the amount of the penalty is 12 percent of the amount of the standby fee.

(p) This subsection applies only to the board of a district that has

entered into a contract with an attorney for the collection of unpaid standby fees. In addition to the penalty authorized by Subsection (j) and in accordance with the resolution or order imposing a standby fee, the board may provide that a standby fee that is not paid in a timely manner is subject to a penalty to defray costs of collection of the unpaid standby fee. The amount of the additional penalty under this subsection may not exceed 15 percent of the amount of the standby fee, interest on the fee, and any penalty imposed in connection with the fee. A penalty under this subsection is incurred on the date set by the board. The penalty may be imposed only if the district or the attorney with whom the district has contracted notifies the property owner of the penalty and the amount of the penalty at least 30 but not more than 60 days before the date the penalty is incurred. A district that imposes the additional penalty under this subsection may not collect both the additional penalty and the attorney's fees provided by Subsection (l).

SECTION 36. Chapter I, Texas Probate Code, is amended by adding Section 5C to read as follows:

Sec. 5C. ACTIONS TO COLLECT DELINQUENT PROPERTY TAXES. (a) This section applies only to a decedent's estate that:

(1) is being administered in a pending probate proceeding;

(2) owns or claims an interest in property against which a taxing unit has imposed ad valorem taxes that are delinquent; and

(3) is not being administered as an independent administration under Section 145 of this code.

(b) Notwithstanding any provision of this code to the contrary, if the probate proceedings are pending in a foreign jurisdiction or in a county other than the county in which the taxes were imposed, a suit to foreclose the lien securing payment of the taxes or to enforce personal liability for the taxes must be brought under Section 33.41, Tax Code, in a court of competent jurisdiction in the county in which the taxes were imposed.

(c) If the probate proceedings have been pending for four years or less in the county in which the taxes were imposed, the taxing unit may present a claim for the delinquent taxes against the estate to the personal representative of the estate in the probate proceedings.

(d) If the taxing unit presents a claim against the estate under Subsection (c) of this section:

(1) the claim of the taxing unit is subject to each applicable provision in Parts 4 and 5, Chapter VIII, of this code that relates to a claim or the enforcement of a claim in a probate proceeding; and

(2) the taxing unit may not bring a suit in any other court to foreclose the lien securing payment of the taxes or to enforce personal liability for the delinquent taxes before the first day after the fourth anniversary of the date the application for the probate proceeding was filed.

(e) To foreclose the lien securing payment of the delinquent taxes, the taxing unit must bring a suit under Section 33.41, Tax Code, in a court of competent jurisdiction for the county in which the taxes were imposed if:

(1) the probate proceedings have been pending in that county for more than four years; and

(2) the taxing unit did not present a delinquent tax claim under Subsection (c) of this section against the estate in the probate proceeding.

(f) In a suit brought under Subsection (e) of this section, the taxing unit:

(1) shall make the personal representative of the decedent's estate a party to the suit; and

(2) may not seek to enforce personal liability for the taxes against the estate of the decedent.

SECTION 37. Section 317(c), Texas Probate Code, is amended to read as follows:

(c) Provisions Not Applicable to Certain Claims. The foregoing provisions relative to the presentment of claims shall not be so construed as to apply to a [~~the~~] claim:

(1) of any heir, devisee, or legatee who claims in such capacity;

(2) [~~, or to any claim~~] that accrues against the estate after the granting of letters for which the representative of the estate has contracted; or

(3) for delinquent ad valorem taxes against a decedent's estate that is being administered in probate in:

(A) a county other than the county in which the taxes were imposed; or

(B) the same county in which the taxes were imposed, if the probate proceedings have been pending for more than four years.

SECTION 38. Section 801, Texas Probate Code, is amended to read as follows:

Sec. 801. PRESENTMENT OF CLAIMS A PREREQUISITE FOR JUDGMENT. (a) A judgment may not be rendered in favor of a claimant on any claim for money that has not been legally presented to the guardian of the estate of the ward and rejected by the guardian or by the court, in whole or in part.

(b) Subsection (a) does not apply to a claim for delinquent ad valorem taxes against the estate of a ward that is being administered in probate in a county other than the county in which the taxes were imposed.

SECTION 39. Article 2.07, Texas Non-Profit Corporation Act (Article 1396-2.07, Vernon's Texas Civil Statutes), is amended by adding Section D to read as follows:

D. Service of process, notice, or demand required or permitted by law to be served by a political subdivision of this state or by a person, including another political subdivision or an attorney, acting on behalf of a political subdivision in connection with the collection of a delinquent ad valorem tax may be served on a corporation whose corporate privileges are forfeited under Section 171.251, Tax Code, or is involuntarily dissolved under Article 7.01 of this Act by delivering the process, notice, or demand to any officer or director of the corporation, as listed in the most recent records of the secretary of state. If the officers or directors of the corporation are unknown or cannot be found, service on the corporation may be made in the same manner as service is made on unknown shareholders under law. Notwithstanding any disability or reinstatement of a corporation, service of process under this section is sufficient for a judgment against the corporation or a judgment in rem against any property to which the corporation holds title.

SECTION 40. Article 2.11, Texas Business Corporation Act, is amended by adding Section D to read as follows:

D. Service of process, notice, or demand required or permitted by law to be served by a political subdivision of this state or by a person, including another political subdivision or an attorney, acting on behalf of a political subdivision in connection with the collection of a delinquent ad valorem tax may be served on a corporation whose corporate privileges are forfeited under Section 171.251, Tax Code, or is involuntarily dissolved under Article 7.01 of this Act by delivering the process, notice, or demand to any officer or director of the corporation, as listed in the most recent records of the secretary of state. If the officers or directors of the corporation are unknown or cannot be found, service on the corporation may be made in the same manner as service is made on unknown shareholders under law. Notwithstanding any disability or reinstatement of a corporation, service of process under this section is sufficient for a judgment against the corporation or a judgment in rem against any property to which the corporation holds title.

SECTION 41. Article 8.10, Texas Business Corporation Act, is amended by adding Section E to read as follows:

E. Service of process, notice, or demand required or permitted by law to be served by a political subdivision of this state or by a person, including another political subdivision or an attorney, acting on behalf of a political subdivision in connection with the collection of a delinquent ad valorem tax may be served on a foreign corporation whose privileges to transact business in this state are forfeited under Section 171.251, Tax Code, or whose certificate of authority is revoked under Article 8.16 of this Act by delivering the process, notice, or demand to any officer or director of the foreign corporation, as listed in the most recent records of the secretary of state. If the officers or directors of the foreign corporation are unknown or cannot be found, service on the foreign corporation may be made in the same manner as service is made on unknown shareholders under law. Notwithstanding any disability or reinstatement of a foreign corporation, service of process under this section is sufficient for a judgment against the foreign corporation or a judgment in rem against any property to which the foreign corporation holds title.

SECTION 42. The following statutes are repealed:

(1) Section 33.51, Tax Code, as amended by Chapters 914 and 111, Acts of the 75th Legislature, Regular Session, 1997; and

(2) Section 34.05(g), Tax Code, as amended by Chapters 712 and 906, Acts of the 75th Legislature, Regular Session, 1997.

SECTION 43. (a) Except as otherwise provided by Subsections (b) and (c) of this section, this Act takes effect September 1, 1999.

(b) Sections 1, 2, 3, 4, 5, 8, and 9 of this Act take effect January 1, 2000, and apply only to ad valorem taxes imposed for a tax year that begins on or after that date.

(c) Sections 6, 10, 11, 12, 14, 15, 16, and 34 of this Act take effect January 1, 2000.

SECTION 44. The change in law made by Section 12 of this Act applies to all liens for which notice may be filed under Section 32.015, Tax Code, with the Texas Department of Housing and Community Affairs on or after January 1, 2000.

SECTION 45. The change in law made by Section 16 of this Act applies to the notice required to be given by Section 33.04(b), Tax Code, in and after 2000. Penalties and interest on a delinquent tax are not canceled under Section 33.04, Tax Code, for failure to deliver a notice required by Section 33.04(b) of that code as it existed immediately before the effective date of this Act if the notice is not required by Section 33.04(b) of that code as amended by this Act.

SECTION 46. The changes in law made by Sections 21 and 22 of this Act apply to all tax suits, regardless of when commenced, in which judgment is entered on or after September 1, 1999.

SECTION 47. The changes in law made by Sections 23, 24, and 25 of this Act apply to all tax sales conducted on or after September 1, 1999, whether the judgment on which the sale is based was entered before, on, or after that date. For purposes of this section, the date on which a tax sale was conducted is considered to be the first Tuesday of the month in which the public auction occurred.

SECTION 48. The changes in law made by Section 26 of this Act apply to the disposition of excess proceeds of a property tax foreclosure or summary sale paid into court regardless of the date on which the sale occurred or the date on which the proceeds were paid into the court.

SECTION 49. The changes in law made by Sections 28 and 30 of this Act apply to any resale of property conducted on or after September 1, 1999, based on a judgment signed before, on, or after that date. For purposes of this section, the date on which a resale was conducted is considered to be the date on which the grantor's acknowledgment was taken or, if multiple grantors, the latest date of acknowledgment of the various grantors.

SECTION 50. The change in law made by Section 31 of this Act applies to any tax resale of property based on an original tax sale conducted before, on, or after September 1, 1999.

SECTION 51. The change in law made by Section 33 of this Act applies to redemption of real property sold at a tax sale conducted on or after September 1, 1999, whether the judgment on which the sale is based was entered before, on, or after September 1, 1999. Redemption of real property sold at a tax sale conducted before September 1, 1999, is governed by the law in effect when the sale occurred, and the former law is continued in effect for that purpose. For purposes of this section, the date on which a tax sale was conducted is considered to be the first Tuesday of the month in which the public auction occurred.

SECTION 52. The changes in law made by Sections 36, 37, and 38 of this Act apply to the estates of all decedents, regardless of the date of death, and to the estates of all wards, regardless of the date the application for appointment of a guardian was filed, and to all causes of action pending on September 1, 1999, or brought after that date.

SECTION 53. The changes in law made by Sections 39, 40, and 41 apply to all actions pending on September 1, 1999, and to any actions brought after that date.

SECTION 54. 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)

Representative Heflin moved to adopt the conference committee report on **HB 3549**.

The motion prevailed without objection.

SCR 89 - ADOPTED
(Goodman - House Sponsor)

The following privileged resolution was laid before the house:

SCR 89, Instructing the enrolling clerk of the senate to make corrections in **SB 560**.

SCR 89 was adopted without objection.

SB 558 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Garcia submitted the conference committee report on **SB 558**.

Representative Garcia moved to adopt the conference committee report on **SB 558**.

The motion prevailed without objection.

SB 840 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hinojosa submitted the conference committee report on **SB 840**.

Representative Hinojosa moved to adopt the conference committee report on **SB 840**.

The motion prevailed without objection.

HB 153 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Nixon submitted the following conference committee report on **HB 153**:

Austin, Texas, May 29, 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 153** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Moncrief	Nixon
Ratliff	Dunnam
Armbrister	Hinojosa
Whitmire	Keel
	Talton
On the part of the Senate	On the part of the House

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.

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

SECTION 1. Subchapter D, Chapter 411, Government Code, is amended by adding Section 411.0421 to read as follows:

Sec. 411.0421. INFORMATION REGARDING FRAUDULENT USE OF IDENTIFICATION. (a) The department shall create a record of each individual who:

(1) in conjunction with the attorney representing the state in the prosecution of felonies in the county in which the individual resides and the sheriff of that county or, if the individual is not a resident of a county in this state, the attorney and sheriff in a county that the individual frequents, signs a declaration that the individual's identity has been used by another person to frustrate proper law enforcement without the individual's consent; and

(2) files that declaration with the department.

(b) A declaration filed under this section must include:

(1) the individual's name, social security number, driver's license number, date of birth, and other identifying data requested by the department;

(2) a statement that the individual's name, social security number, driver's license number, date of birth, or other data has been used by another person to frustrate proper law enforcement; and

(3) a name, word, number, letter, or combination of 30 or fewer characters designated by the individual as a unique password to verify the individual's identity.

(c) On receipt of a declaration under this section, the department shall create a record of the individual's identity, including a record of the individual's unique password, in the criminal history record information maintained by the department under Subchapter F. The department shall ensure that this record, including the unique password, is available online to any criminal justice agency authorized to receive information from the department under Subchapter F.

SECTION 2. Chapter 60, Code of Criminal Procedure, is amended by adding Article 60.19 to read as follows:

Art. 60.19. INFORMATION RELATED TO MISUSED IDENTITY. On receipt of a declaration under Section 411.0421, Government Code, or on receipt of information similar to that contained in a declaration, the department shall separate information maintained in the computerized criminal history system regarding an individual whose identity has been misused from information maintained in that system regarding the person who misused the identity.

SECTION 3. This Act takes effect September 1, 1999, except that the Texas Department of Public Safety is not required to begin performing the duties imposed on the department by Section 411.0421, Government Code, and Article 60.19, Code of Criminal Procedure, as added by this Act, until the date on which the department begins complying with Year 2000 upgrade requirements imposed on the department by the National Crime Information Center.

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 Nixon moved to adopt the conference committee report on **HB 153**.

The motion prevailed without objection.

HB 3061 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hill submitted the following conference committee report on **HB 3061**:

Austin, Texas, May 28, 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 3061** 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.

Bernsen	Hill
Moncrief	Alexander
Shapleigh	Hawley
Siebert	
Noriega	
On the part of the Senate	On the part of the House

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.

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

SECTION 1. Subchapter E, Chapter 621, Transportation Code, is amended by adding Section 621.357 to read as follows:

Sec. 621.357. PAYMENT OF FEES BY GOVERNMENTAL ENTITY. Notwithstanding any other law, the department may not charge a governmental entity a fee for a permit issued by the department that authorizes the operation of a vehicle and its load or a combination of vehicles and load exceeding size or weight limitations.

SECTION 2. Section 623.011, Transportation Code, is amended to read as follows:

Sec. 623.011. PERMIT FOR EXCESS AXLE OR GROSS WEIGHT. (a) The department may issue a permit that authorizes the operation of a commercial motor vehicle, trailer, semitrailer, or combination of those vehicles, or a truck-tractor or combination of a truck-tractor and one or more other vehicles:

(1) at an axle weight that is not heavier than the weight equal to the maximum allowable axle weight for the vehicle or combination plus a tolerance allowance of 10 percent of that allowable weight; and

(2) at a gross weight that is not heavier than the weight equal to the maximum allowable gross weight for the vehicle or combination plus a tolerance allowance of five percent.

(b) To qualify for a permit under this section:

(1) the vehicle must be registered under Chapter 502 for the maximum gross weight applicable to the vehicle under Section 621.101, not to exceed 80,000 pounds;

(2) the security requirement of Section 623.012 must be satisfied; and

(3) a base permit fee of $75, any additional fee required by Section 623.0111, and any additional fee set by the department under Section 623.0112 must be paid.

(c) A permit issued under this section:

(1) is valid for one year;

(2) must be carried in the vehicle for which it is issued; and

(3) does not authorize the operation on the national system of interstate and defense highways in this state of vehicles with a weight greater than authorized by federal law.

(d) [~~When the department issues a permit under this section, the department shall issue a sticker to be placed on the front windshield of the vehicle above the inspection certificate issued to the vehicle. The department shall design the form of the sticker to aid in the enforcement of weight limits for vehicles.~~

[~~(e) The sticker must:~~

[~~(1) indicate the expiration date of the permit; and~~

[~~(2) be removed from the vehicle when:~~

[~~(A) the permit for operation of the vehicle expires;~~

[~~(B) a lease of the vehicle expires; or~~

[~~(C) the vehicle is sold.~~

[~~(f) A person commits an offense if the person fails to display the sticker in the manner required by Subsection (d). An offense under this subsection is a Class C misdemeanor. Section 623.019(g) applies to an offense under this subsection.~~

[~~(g)~~] A vehicle operating under a permit issued under this section may exceed the maximum allowable gross weight tolerance allowance by not more than five percent, regardless of the weight of any one axle or tandem axle, if no axle or tandem axle exceeds the tolerance permitted by Subsection (a).

SECTION 3. Section 623.0112, Transportation Code, is amended to read as follows:

Sec. 623.0112. ADDITIONAL ADMINISTRATIVE FEE. When a person applies for a permit under Section 623.011, the person must pay in addition to other fees an administrative fee adopted by department rule in an amount not to exceed the direct and indirect cost to the department of:

(1) [~~issuing a sticker under Section 623.011(d);~~

[~~(2)~~] distributing fees under Section 621.353; and

(2) [~~(3)~~] notifying counties under Section 623.013.

SECTION 4. Sections 623.074(b) and (d), Transportation Code, are amended to read as follows:

(b) The application must:

(1) be in writing;

(2) state the kind of equipment to be operated;

(3) describe the equipment;

(4) give the weight and dimensions of the equipment;

(5) give the width, height, and length of the equipment; and

(6) state the kind of commodity to be transported and the weight of the total load[~~; and~~

[~~(7) be dated and signed by the applicant~~].

(d) The department may by rule authorize an applicant to submit an application electronically. [~~An electronically submitted application shall be considered signed if a digital signature is transmitted with the application and intended by the applicant to authenticate the application. For purposes of this subsection, "digital signature" means an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature.~~]

SECTION 5. Section 623.123, Transportation Code, is amended to read as follows:

Sec. 623.123. APPLICATION. The application for a permit under Section 623.121 must:

(1) be in writing;

(2) state the make and model of the portable building unit or units;

(3) state the length and width of the portable building unit or units;

(4) state the make and model of the towing vehicle;

(5) state the length and width of the towing vehicle;

(6) state the length and width of the combined portable building unit or units and towing vehicle;

(7) state each highway over which the portable building unit or units are to be moved; and

(8) indicate the point of origin and destination[~~; and~~

[~~(9) be dated and signed by the applicant~~].

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, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Representative Hill moved to adopt the conference committee report on **HB 3061**.

The motion prevailed without objection.

HB 844 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Wilson submitted the following conference committee report on **HB 844**:

Austin, Texas, May 29, 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 844** 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	Wilson
Barrientos	Flores
Brown	Haggerty
Gallegos	J. Moreno
Ratliff	Yarbrough
On the part of the Senate	On the part of the House

HB 844, A bill to be entitled An Act relating to the total amount of state lottery prizes that may be awarded in a fiscal year.

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

SECTION 1. Section 466.015(c), Government Code, is amended to read as follows:

(c) The commission may adopt rules governing the establishment and operation of the lottery, including rules governing:

(1) the type of lottery games to be conducted;

(2) the price of each ticket;

(3) the number of winning tickets and amount of the prize paid on each winning ticket[~~, except that the total amount of prizes awarded under this chapter may not exceed the amount described in Subsection (d)~~];

(4) the frequency of the drawing or selection of a winning ticket;

(5) the number and types of locations at which a ticket may be sold;

(6) the method to be used in selling a ticket;

(7) the use of vending machines or electronic or mechanical devices of any kind, other than machines or devices that dispense currency or coins as prizes;

(8) the manner of paying a prize to the holder of a winning ticket;

(9) the investigation of possible violations of this chapter or any rule adopted under this chapter;

(10) the means of advertising to be used for the lottery;

(11) the qualifications of vendors of lottery services or equipment;

(12) the confidentiality of information relating to the operation of the lottery, including:

(A) trade secrets;

(B) security measures, systems, or procedures;

(C) security reports;

(D) bids or other information regarding the commission's contracts, if disclosure of the information would impair the commission's ability to contract for facilities, goods, or services on terms favorable to the commission;

(E) personnel information unrelated to compensation, duties, qualifications, or responsibilities; and

(F) information obtained by commission security officers or investigators;

(13) the development and availability of a model agreement governing the division of a prize among multiple purchasers of a winning ticket purchased through a group purchase or pooling arrangement;

(14) the criteria to be used in evaluating bids for contracts for lottery facilities, goods, and services; or

(15) any other matter necessary or desirable as determined by the commission, to promote and ensure:

(A) the integrity, security, honesty, and fairness of the operation and administration of the lottery; and

(B) the convenience of players and holders of winning tickets.

SECTION 2. Section 466.015, Government Code, is amended by amending Subsection (d) and adding Subsection (e) to read as follows:

(d) If the [~~The~~] total amount of lottery prizes awarded by [~~that~~] the commission [~~may award for all lottery games~~] in any state fiscal year after the fiscal year ending August 31, 2000, exceeds [~~may not exceed~~] an amount equal to 52 percent of the gross revenue from the sale of tickets in that fiscal year [~~multiplied by the percentage amount of lottery prizes awarded for all lottery games in fiscal year 1997~~] as determined by the comptroller, the advertising budget for the lottery in the next state fiscal year may not exceed an amount equal to $40 million less $1 million for each full percent by which the gross revenue from the sale of tickets in the preceding fiscal year exceeds an amount equal to 52 percent of the gross revenue from the sale of tickets in that preceding fiscal year as determined by the comptroller [~~minus an amount equal to five percent of gross lottery revenue for the fiscal year in which the prizes are being awarded~~].

(e) If the total amount of the lottery prizes awarded by the commission in the state fiscal year ending August 31, 2000, exceeds an amount equal to 57 percent of the gross revenue from the sale of tickets in that fiscal year as determined by the comptroller, the advertising budget for the lottery in the state fiscal year ending August 31, 2001, may not exceed an amount equal to $40 million less $1 million for each full percent by which the gross revenue from the sale of tickets in the fiscal year ending August 31, 2000, exceeds an amount equal to 57 percent of the gross revenue from the sale of tickets in that fiscal year as determined by the comptroller. This subsection expires January 1, 2002.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an

imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Representative Wilson moved to adopt the conference committee report on **HB 844**.

A record vote was requested.

The motion prevailed by (Record 534): 139 Yeas, 2 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.; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Gallego; Garcia; George; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hawley; Heflin; Hilbert; Hilderbran; Hill; Hinojosa; 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; 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; Smithee; 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 — Shields; Talton.

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

Absent, Excused — Crownover; Jones, D.

Absent — Corte; Delisi; Flores; Hochberg; Maxey.

STATEMENT OF VOTE

When Record No. 534 was taken, I was in the house but away from my desk. I would have voted yes.

Delisi

HCR 315 - ADOPTED
(by Nixon)

The following privileged resolution was laid before the house:

HCR 315

WHEREAS, **HB 153** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

WHEREAS, The bill contains a technical error that should be corrected; now, therefore, be it

RESOLVED by the 76th Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to correct **HB 153**, in SECTION 3, by striking the language between the comma after "as added by this Act" and the period at the end of that SECTION and substituting the following:

"until the date on which the department implements the requirements of the National Crime Information Center 2000 system upgrades".

HCR 315 was adopted without objection.

HB 1933 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative G. Lewis submitted the following conference committee report on **HB 1933**:

Austin, Texas, May 28, 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 1933** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Shapiro	G. Lewis
Fraser	Farabee
Lindsay	Chisum
Wentworth	
On the part of the Senate	On the part of the House

HB 1933, A bill to be entitled An Act relating to allowing a county clerk to impose a fee for certain background checks.

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

SECTION 1. Section 118.011(b), Local Government Code, is amended to read as follows:

(b) The county clerk may set and collect the following fee from any person:

(1) Returned Check (Sec. 118.0215) ..... not less than $15 or more than $25

(2) Records Management and Preservation Fee (Sec. 118.0216) ..... not more than $5

(3) Mental Health Background Check for License to Carry a Concealed Weapon (Sec. 118.0217) . . . . . not more than $2

SECTION 2. Subchapter B, Chapter 118, Local Government Code, is amended by adding Section 118.0217 to read as follows:

Sec. 118.0217. MENTAL HEALTH BACKGROUND CHECK. (a) The fee for a "mental health background check for license to carry a concealed weapon" is for a check, conducted by the county clerk at the request of the Texas Department of Public Safety, of the county records involving the

mental condition of a person who applies for a license to carry a concealed handgun under Subchapter H, Chapter 411, Government Code. The fee, not to exceed $2, will be paid from the application fee submitted to the Department of Public Safety according to Section 411.174(a)(6), Government Code.

(b) This section and Section 118.011(b)(3) do not affect the procedures for access to court records prescribed by Section 571.015, Health and Safety Code.

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

Representative G. Lewis moved to adopt the conference committee report on **HB 1933**.

A record vote was requested.

The motion prevailed by (Record 535): 144 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; 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; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Crownover; Jones, D.

Absent — Corte; Gutierrez; Wohlgemuth.

SB 358 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Gray submitted the conference committee report on **SB 358**.

Representative Gray moved to adopt the conference committee report on **SB 358**.

The motion prevailed without objection.

SB 365 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative McCall submitted the conference committee report on **SB 365**.

Representative McCall moved to adopt the conference committee report on **SB 365**.

The motion prevailed without objection.

HB 2190 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hinojosa submitted the following conference committee report on **HB 2190**:

Austin, Texas, May 29, 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 2190** 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	Hinojosa
Duncan	Dunnam
Whitmire	Keel
Harris	Talton
Nelson	Wise
On the part of the Senate	On the part of the House

HB 2190, A bill to be entitled An Act relating to the prosecution of certain offenses involving a check and to certain actions based on nonpayment of a check.

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

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. Chapter 31, Penal Code, is amended by adding Section 31.061 to read as follows:

Sec. 31.061. THREATENING OR PURSUING ACTION TO COLLECT CERTAIN CHECKS. A person may not file or threaten to file a charge, complaint, or criminal prosecution under Section 31.03, 31.04, or 32.41 based on nonpayment of a check or similar sight order for the payment of money if the person from whom collection is sought gave the check or other order in exchange for a cash advance and the person making the advance received compensation exceeding five percent of the amount of the check or other order. This section may not be construed to authorize the practice of requiring a check to be given as security for a loan.

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.

Representative Hinojosa moved to adopt the conference committee report on **HB 2190**.

The motion prevailed without objection.

HB 3457 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hinojosa submitted the following conference committee report on **HB 3457**:

Austin, Texas, May 29, 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 3457** 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	Hinojosa
Whitmire	Talton
Jackson	Keel
Nelson	Wise
	Smith
On the part of the Senate	On the part of the House

HB 3457, A bill to be entitled An Act relating to the renewal of certain bail bondsman licenses.

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

SECTION 1. Section 8, Chapter 550, Acts of the 63rd Legislature, Regular Session, 1973 (Article 2372p-3, Vernon's Texas Civil Statutes), is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) A license [~~issued~~] under this Act that has been issued for less than six consecutive years or that has been suspended expires 24 months after the date of its issuance and may not be renewed unless an application for renewal is filed with the board at least 30 days before expiration. The application for renewal shall have the same form and content as an application for an original license under this Act. The application for renewal shall be accompanied by a renewal fee of $500. Except as provided by Subsection (d) of this section, if [~~If~~] the applicant's current license has not been suspended or revoked, if the renewal application complies with the requirements of this Act, and if the board knows no legal reason why the application should not be renewed, the license may then be renewed for a period of 24 months from the date of expiration and may be renewed subsequently each 24 months in like manner.

(d) A person who applies for renewal of a license that has been held by the person for at least six consecutive years without having been suspended or revoked under this Act and who complies with the requirements of this Act may renew the license for a period of 48 months from the date of expiration if the board knows of no legal reason why the application should not be renewed and if the board determines that the applicant has submitted an annual financial report to each county bail bond board before the anniversary date of the issuance of the applicant's license. A license renewed under this subsection may be renewed subsequently each 48 months in a similar manner.

SECTION 2. This Act takes effect September 1, 1999, and applies only to a license renewal application filed on or after that date. A renewal application filed before the effective date of this Act is governed by the law in effect on the day the renewal application was filed, and the former law is continued in effect for that purpose.

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

Representative Hinojosa moved to adopt the conference committee report on **HB 3457**.

The motion prevailed without objection.

SB 957 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Eiland submitted the conference committee report on **SB 957**.

Representative Eiland moved to adopt the conference committee report on **SB 957**.

The motion prevailed without objection.

HB 662 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hilderbran submitted the following conference committee report on **HB 662**:

Austin, Texas, May 29, 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 662** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Wentworth	Hilderbran
Harris	Swinford
Ellis	B. Brown
On the part of the Senate	On the part of the House

HB 662, A bill to be entitled An Act relating to the assessment of administrative fees for certain transactions relating to the collection of court costs.

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

SECTION 1. Article 102.072, Code of Criminal Procedure, is amended to read as follows:

Art. 102.072. ADMINISTRATIVE FEE. [~~(a)~~] An officer listed in Article 103.003 or a community supervision and corrections department may assess an administrative fee for each transaction made by the officer or department relating to the collection of fines, fees, restitution, or other costs imposed by a court. The fee may not exceed $2 for each transaction. This article does not apply to a transaction relating to the collection of child support.

[~~(b) This article applies only to a county with a population of 2.8 million or more.~~]

SECTION 2. The change in law made by this Act applies only to a transaction that occurs on or after the effective date of this Act. A transaction that occurs before the effective date of this Act is covered by the law in effect when the transaction occurred, and the former law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 1999.

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 Hilderbran moved to adopt the conference committee report on **HB 662**.

The motion prevailed without objection.

HB 2641 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Gray submitted the following conference committee report on **HB 2641**:

Austin, Texas, May 29, 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 2641** 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	Gray
Zaffirini	McCall
Madla	Bosse
On the part of the Senate	On the part of the House

HB 2641, A bill to be entitled An Act relating to the continuation and functions of the Health and Human Services Commission.

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

ARTICLE 1. GENERAL POWERS AND DUTIES OF HEALTH AND HUMAN SERVICES COMMISSION

SECTION 1.01. Section 531.004, Government Code, is amended to read as follows:

Sec. 531.004. SUNSET PROVISION. The Health and Human Services Commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this chapter expires September 1, 2007 [~~1999~~].

SECTION 1.02. Section 531.009, Government Code, is amended to read as follows:

Sec. 531.009. PERSONNEL. (a) The commissioner shall employ a medical director to provide medical expertise to the commissioner and the commission and may employ other personnel necessary to administer the commission's duties.

(b) The commissioner or the commissioner's designated representative shall develop an intra-agency career ladder program, one part of which must require the intra-agency posting of all non-entry-level positions concurrently with any public posting.

(c) The commissioner or the commissioner's designated representative shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for commission employees must be based on the system established under this subsection.

(d) The commissioner shall provide to commission employees as often as is necessary information regarding their qualifications under this chapter and their responsibilities under applicable laws relating to standards of conduct for state employees.

(e) The commissioner or the commissioner's designated representative shall prepare and maintain a written policy statement that implements [~~to ensure implementation of~~] a program of equal employment opportunity to ensure that [~~under which~~] all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin.

(f) The policy statement described by Subsection (e) must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, [~~appointment,~~] training, and promotion of personnel, that show the intent of the commission 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 commission's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law [~~a comprehensive analysis of the commission workforce that meets federal and state guidelines;~~

[~~(3) procedures by which a determination can be made of significant underuse in the commission workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and~~

[~~(4) reasonable methods to appropriately address areas of significant underuse in the commission workforce of all persons for whom federal or state guidelines encourage a more equitable balance~~].

(g) The policy statement described by Subsection (e) must:

(1) be updated annually;

(2) be reviewed by the state Commission on Human Rights for compliance with Subsection (f)(1); and

(3) be filed with the governor's office.

SECTION 1.03. Section 531.011, Government Code, is amended by adding Subsection (g) to read as follows:

(g) In addition to the information file maintained under Subsection (e), the commission shall maintain an information file on a complaint received by the commission relating to any matter or agency under the jurisdiction of the commission.

SECTION 1.04. Subchapter A, Chapter 531, Government Code, is amended by adding Section 531.014 to read as follows:

Sec. 531.014. CONSOLIDATION OF REPORTS. The commission may consolidate any annual or biennial reports required to be made under this chapter or another law if:

(1) the consolidated report is submitted not later than the earliest deadline for the submission of any component of the consolidated report; and

(2) each person required to receive a component of the consolidated report receives the consolidated report and the consolidated report identifies the component of the report the person was required to receive.

SECTION 1.05. Subchapter A, Chapter 531, Government Code, is amended by adding Section 531.015 to read as follows:

Sec. 531.015. NEW FACILITIES IN CERTAIN COUNTIES. A health and human services agency is prohibited from establishing a new facility in a county with a population of less than 200,000 until the agency provides notification about the facility, its location, and its purpose to each state

representative and state senator that represents all or part of the county, the county judge that represents the county, and the mayor of any municipality in which the facility would be located.

ARTICLE 2. RELATIONSHIP WITH HEALTH AND HUMAN SERVICES AGENCIES

SECTION 2.01. Subchapter A, Chapter 531, Government Code, is amended by adding Sections 531.0055, 531.0056, and 531.0057 to read as follows:

Sec. 531.0055. COMMISSIONER: RESPONSIBILITY RELATING TO CERTAIN FUNCTIONS OF HEALTH AND HUMAN SERVICES AGENCIES. (a) In this section and in Section 531.0056:

(1) "Agency director" means the director, executive director, or commissioner of a health and human services agency.

(2) "Policymaking body" means the board or commission with policymaking authority over a health and human services agency.

(b) The commission shall:

(1) supervise the administration and operation of the Medicaid program, including the administration and operation of the Medicaid managed care system in accordance with Section 531.021;

(2) supervise information systems planning and management for health and human services agencies under Section 531.0273;

(3) monitor and ensure the effective use of all federal funds received by a health and human services agency in accordance with Section 531.028 and the General Appropriations Act; and

(4) implement Texas Integrated Enrollment Services as required by Subchapter F.

(c) After implementation of the commission's duties under Subsection (b), the commission shall implement the powers and duties given to the commission under Sections 531.0246, 531.0247, 2155.144, as added by Chapter 1045, Acts of the 75th Legislature, Regular Session, 1997, and 2167.004.

(d) After implementation of the commission's duties under Subsections (b) and (c), the commission shall implement the powers and duties given to the commission under Section 531.0248. Nothing in the priorities established by this section is intended to limit the authority of the commission to work simultaneously to achieve the multiple tasks assigned to the commission in this section, when such an approach is beneficial in the judgment of the commission. The commission shall plan and implement an efficient and effective system of administrative support services for health and human services agencies. The term "administrative support services" includes, but is not limited to, strategic planning, audit, legal, human resources, and accounting services.

(e) Notwithstanding any other law, the commissioner, as necessary to perform the functions described by Subsections (b), (c), and (d) in implementation of the policies established by each agency's policymaking body, shall:

(1) manage and direct the operations of each health and human services agency; and

(2) supervise and direct the activities of each agency director.

(f) The operational authority of the commissioner for purposes of Subsection (e) at each health and human services agency includes authority over the:

(1) management of the daily operations of the agency, including the organization and management of the agency and agency operating procedures;

(2) allocation of resources within the agency, including use of federal funds received by the agency;

(3) personnel and employment policies;

(4) contracting, purchasing, and related policies, subject to this chapter and other laws relating to contracting and purchasing by a state agency;

(5) information resources systems used by the agency;

(6) location of agency facilities; and

(7) coordination of agency activities with activities of other state agencies, including other health and human services agencies.

(g) Notwithstanding any other law, the operational authority of the commissioner for purposes of Subsection (e) at each health and human services agency includes the authority to adopt or approve, subject to applicable limitations, any rate of payment or similar provision required by law to be adopted or approved by the agency.

(h) For each health and human services agency, the commissioner shall implement a program to evaluate and supervise the daily operations of the agency. The program must include measurable performance objectives for each agency director and adequate reporting requirements to permit the commissioner to perform the duties assigned to the commissioner under this section.

(i) To facilitate the operations of a health and human services agency in accordance with this section, the commissioner may delegate a specific power or duty given under Subsection (f) or (g) to an agency director.

(j) The commissioner may adopt rules to implement the commissioner's authority under this section.

(k) The commissioner and each agency director shall enter into a memorandum of understanding that:

(1) clearly defines the responsibilities of the agency director and the commissioner;

(2) establishes the program of evaluation and supervision of daily operations required by Subsection (h); and

(3) describes each delegation of a power or duty made under Subsection (i).

(l) Notwithstanding any other provision of this section, a policymaking body has the authority provided by law to adopt policies and rules governing the delivery of services to persons who are served by the agency and the rights and duties of persons who are served or regulated by the agency. The commissioner and each policymaking body shall enter into a memorandum of understanding that clearly defines:

(1) the policymaking authority of the policymaking body; and

(2) the operational authority of the commissioner.

Sec. 531.0056. EMPLOYMENT OF AGENCY DIRECTOR. (a) This section applies only to an agency director employed by the commissioner.

(b) An agency director employed by the commissioner may be employed only with the concurrence of the agency's policymaking body and the approval of the governor.

(c) As established in Section 531.0055(k)(1), the commissioner and agency director shall enter into a memorandum of understanding that clearly defines the responsibilities of the agency director and may establish terms and conditions of employment in the memorandum of understanding.

(d) The terms of the memorandum of understanding shall outline specific performance objectives, as defined jointly by the commissioner and the policymaking body, to be fulfilled by the agency director, including the performance objectives outlined in Section 531.0055(h).

(e) Based upon the performance objectives outlined in the memorandum of understanding, the commissioner shall perform an employment evaluation of the agency director.

(f) The commissioner shall submit the evaluation, along with any recommendation regarding the employment of the agency director, to the agency's policymaking body and the governor not later than January 1 of each even-numbered year.

(g) The policymaking body shall consider the evaluation in a meeting of the policymaking body and take necessary action, if any, not later than 90 days after the date of the receipt of the evaluation.

(h) An agency director employed by the commissioner serves at the pleasure of the commissioner but may be discharged only with the concurrence of the agency's policymaking body.

Sec. 531.0057. AUTHORITY OVER RULEMAKING AT HEALTH AND HUMAN SERVICES AGENCY. (a) Notwithstanding any other law, a health and human services agency must notify the commissioner before proposing a rule. A rule adopted in violation of this section is void.

(b) The commissioner may waive the requirement of this section as necessary to permit emergency rulemaking in accordance with Section 2001.034.

SECTION 2.02. Section 21.004, Human Resources Code, is amended to read as follows:

Sec. 21.004. COMMISSIONER. (a) The Commissioner of Human Services is the executive and administrative officer of the department. The commissioner exercises all rights, powers, and duties imposed or conferred by law on the department unless the right, power, or duty is specifically delegated by the commissioner of health and human services [~~board~~] to the department's agents or employees.

(b) The commissioner is employed [~~appointed~~] by the commissioner of health and human services in accordance with Section 531.0056, Government Code [~~board with the approval of the governor and serves at the pleasure of the board~~].

(c) To be eligible for employment [~~appointment~~] as commissioner, a person must be at least 35 years old, have had experience as an executive or administrator, and not have served as an elected state officer as defined

by Chapter 572, Government Code, during the six-month period preceding the date of the employment [~~appointment~~].

SECTION 2.03. Chapter 22, Human Resources Code, is amended by adding Section 22.0001 to read as follows:

Sec. 22.0001. POWERS AND DUTIES OF COMMISSIONER OF HEALTH AND HUMAN SERVICES. The commissioner of health and human services has the powers and duties relating to the board and commissioner as provided by Section 531.0055, Government Code. To the extent a power or duty given to the board or commissioner by this title or another law conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

SECTION 2.04. Section 40.027, Human Resources Code, is amended to read as follows:

Sec. 40.027. EXECUTIVE DIRECTOR. (a) The commissioner of health and human services [~~board~~] shall employ the executive director in accordance with Section 531.0056, Government Code [~~with the approval of the governor. The executive director serves at the pleasure of the board~~].

(b) The executive director is the executive head of the department. The executive director shall perform the duties assigned by the commissioner of health and human services [~~board~~] and state law.

SECTION 2.05. Subchapter C, Chapter 40, Human Resources Code, is amended by adding Section 40.0505 to read as follows:

Sec. 40.0505. POWERS AND DUTIES OF COMMISSIONER OF HEALTH AND HUMAN SERVICES. The commissioner of health and human services has the powers and duties relating to the board and executive director as provided by Section 531.0055, Government Code. To the extent a power or duty given to the board or executive director by this chapter or another law conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

SECTION 2.06. Chapter 73, Human Resources Code, is amended by adding Section 73.0045 to read as follows:

Sec. 73.0045. POWERS AND DUTIES OF COMMISSIONER OF HEALTH AND HUMAN SERVICES. The commissioner of health and human services has the powers and duties relating to the board and the executive director of the board as provided by Section 531.0055, Government Code. To the extent a power or duty given to the board or executive director by this chapter or another law conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

SECTION 2.07. Sections 73.0052(b) and (c), Human Resources Code, are amended to read as follows:

(b) The commissioner of health and human services [~~board~~] shall employ an executive director in accordance with Section 531.0056, Government Code. The[~~, and the~~] executive director shall establish necessary administrative units[~~;~~] and hire other necessary employees.

(c) Utilizing established standards, the commissioner of health and human services [~~board~~] shall evaluate the performance of the executive director annually.

SECTION 2.08. Chapter 81, Human Resources Code, is amended by adding Section 81.0055 to read as follows:

Sec. 81.0055. POWERS AND DUTIES OF COMMISSIONER OF HEALTH AND HUMAN SERVICES. The commissioner of health and human services has the powers and duties relating to the commission and the executive director of the commission as provided by Section 531.0055, Government Code. To the extent a power or duty given to the commission or executive director by this chapter or another law conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

SECTION 2.09. Sections 81.008(a) and (b), Human Resources Code, are amended to read as follows:

(a) The commissioner of health and human services [~~commission~~] shall employ [~~appoint~~] an executive director in accordance with Section 531.0056, Government Code [~~with the approval of the governor~~].

(b) In selecting an executive director, the commissioner of health and human services [~~commission~~] shall give preference to a deaf or hard of hearing person.

SECTION 2.10. Sections 91.012(a), (b), and (d), Human Resources Code, are amended to read as follows:

(a) The commissioner of health and human services [~~commission~~] shall employ [~~annually appoint~~] an executive director in accordance with Section 531.0056, Government Code [~~with the approval of the governor~~].

(b) The commissioner of health and human services [~~commission~~] shall select the executive director, according to established personnel standards, on the basis of education, training, experience, and demonstrated ability.

(d) The [~~On commission approval, the~~] executive director:

(1) shall appoint personnel necessary to efficiently accomplish commission purposes;

(2) may delegate to an employee a power of the executive director except the power to adopt rules or appoint personnel;

(3) shall establish appropriate administrative units within commission programs;

(4) may accept and use gifts and grants to the commission to carry out the purposes of this title, if the commission determines that the conditions of the gift or grant are consistent with this title; and

(5) may take other actions that the executive director considers necessary or appropriate to carry out commission purposes.

SECTION 2.11. Subchapter C, Chapter 91, Human Resources Code, is amended by adding Section 91.0205 to read as follows:

Sec. 91.0205. POWERS AND DUTIES OF COMMISSIONER OF HEALTH AND HUMAN SERVICES. The commissioner of health and human services has the powers and duties relating to the commission and executive director as provided by Section 531.0055, Government Code. To the extent a power or duty given to the commission or executive director by this chapter or another law conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

SECTION 2.12. Section 101.004(a), Human Resources Code, is amended to read as follows:

(a) The commissioner of health and human services [~~board~~] shall employ [~~appoint~~] an executive director of aging in accordance with Section 531.0056,

Government Code [~~with the approval of the governor~~]. The executive director shall discharge all executive and administrative functions of the department. The executive director must be a person with executive ability and experience in the area of aging. [~~The executive director serves at the pleasure of the board.~~]

SECTION 2.13. Subchapter B, Chapter 101, Human Resources Code, is amended by adding Section 101.0205 to read as follows:

Sec. 101.0205. POWERS AND DUTIES OF COMMISSIONER OF HEALTH AND HUMAN SERVICES. The commissioner of health and human services has the powers and duties relating to the board and executive director as provided by Section 531.0055, Government Code. To the extent a power or duty given to the board or executive director by this chapter or another law conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

SECTION 2.14. Section 111.017, Human Resources Code, is amended to read as follows:

Sec. 111.017. COMMISSIONER. (a) This chapter is administered by the commissioner under operational policies established by the commissioner of health and human services [~~board~~]. The commissioner is employed [~~appointed~~] by the commissioner of health and human services in accordance with Section 531.0056, Government Code [~~board, with the approval of the governor~~], on the basis of education, training, experience, and demonstrated ability.

(b) The commissioner serves as [~~at the pleasure of the board and is~~] secretary to the board, as well as chief administrative officer of the agency.

SECTION 2.15. Subchapter C, Chapter 111, Human Resources Code, is amended by adding Section 111.0505 to read as follows:

Sec. 111.0505. POWERS AND DUTIES OF COMMISSIONER OF HEALTH AND HUMAN SERVICES. The commissioner of health and human services has the powers and duties relating to the commission and commissioner as provided by Section 531.0055, Government Code. To the extent a power or duty given to the commission or commissioner by this chapter or another law conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

SECTION 2.16. Subchapter C, Chapter 141, Human Resources Code, is amended by adding Section 141.0405 to read as follows:

Sec. 141.0405. POWERS AND DUTIES OF COMMISSIONER OF HEALTH AND HUMAN SERVICES. The commissioner of health and human services has the powers and duties relating to the commission and director as provided by Section 531.0055, Government Code. To the extent a power or duty given to the commission or director by this chapter or another law conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

SECTION 2.17. Sections 11.012(a), (b), (c), and (d), Health and Safety Code, are amended to read as follows:

(a) The commissioner of health and human services [~~board~~] shall employ the commissioner in accordance with Section 531.0056, Government Code [~~with the approval of the governor. The commissioner serves at the will of the board~~].

(b) Except as provided in Subsection (c), the commissioner must:

(1) have at least five years of experience in the administration of public health systems; and

(2) be a person licensed to practice medicine in this state.

(c) The commissioner of health and human services [~~board~~] may, based on the qualifications and experience in administering public health systems [~~and on two thirds vote of the board~~], employ a person other than a physician as the commissioner.

(d) If the commissioner of health and human services [~~board~~] employs a person as commissioner who is not a physician, then the board shall designate a person licensed to practice medicine in this state as chief medical executive.

SECTION 2.18. Subchapter A, Chapter 12, Health and Safety Code, is amended by adding Section 12.0001 to read as follows:

Sec. 12.0001. POWERS AND DUTIES OF COMMISSIONER OF HEALTH AND HUMAN SERVICES. The commissioner of health and human services has the powers and duties relating to the board and commissioner as provided by Section 531.0055, Government Code. To the extent a power or duty given to the board or commissioner by this title or another law conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

SECTION 2.19. Section 461.011(a), Health and Safety Code, is amended to read as follows:

(a) The commissioner of health and human services [~~commission~~] shall employ an executive director in accordance with Section 531.0056, Government Code [~~with the approval of the governor~~]. The executive director shall hire other necessary employees.

SECTION 2.20. Chapter 461, Health and Safety Code, is amended by adding Section 461.0115 to read as follows:

Sec. 461.0115. POWERS AND DUTIES OF COMMISSIONER OF HEALTH AND HUMAN SERVICES. The commissioner of health and human services has the powers and duties relating to the commission and executive director as provided by Section 531.0055, Government Code. To the extent a power or duty given to the commission or executive director by this chapter or another law conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

SECTION 2.21. Sections 532.011(a), (b), (d), and (f), Health and Safety Code, are amended to read as follows:

(a) The commissioner of health and human services [~~board~~] shall employ [~~appoint~~] a commissioner in accordance with Section 531.0056, Government Code [~~with the approval of the governor~~].

(b) To be qualified for employment [~~appointment~~] as commissioner, a person must have:

(1) professional training and experience in the administration or management of comprehensive health care or human service operations; and

(2) proven administrative and management ability, preferably in the health care area.

(d) The [~~Subject to board rules and basic and general policies, the~~] commissioner:

(1) has the administrative and decisional powers granted under this subtitle; and

(2) shall administer the department and this subtitle and ensure [~~assure~~] the effective administration of the department and its programs and services.

(f) The [~~With the board's approval, the~~] commissioner shall:

(1) establish an organizational structure within the department that will promote the effective administration of this subtitle; and

(2) establish the duties and functions of the department's staff.

SECTION 2.22. Subchapter A, Chapter 533, Health and Safety Code, is amended by adding Section 533.0001 to read as follows:

Sec. 533.0001. POWERS AND DUTIES OF COMMISSIONER OF HEALTH AND HUMAN SERVICES. The commissioner of health and human services has the powers and duties relating to the board and commissioner as provided by Section 531.0055, Government Code. To the extent a power or duty given to the board or commissioner by this title or another law conflicts with Section 531.0055, Government Code, Section 531.0055 controls.

SECTION 2.23. (a) In this section, "agency director" and "policymaking body" have the meanings assigned by Section 531.0055, Government Code, as added by this Act.

(b) An agency director serving on the effective date of this Act continues to serve in that position until the earlier of the date that:

(1) the term provided by statute or contract for that person's appointment or employment expires; or

(2) the director is removed from the position as provided by law.

(c) The commissioner shall fill a position that becomes vacant as described by Subsections (b)(1)-(2) of this section, with the concurrence of the appropriate policymaking body and the approval of the governor, as required by Section 531.0056, Government Code, as added by this Act.

(d) With the concurrence of the appropriate policymaking body and the approval of the governor, the commissioner of health and human services is authorized to employ the agency director of an agency added to those agencies defined as health and human services agencies by Section 531.001, Government Code, by any other Act of the 76th Legislature. The agency director is employed and serves in accordance with Section 531.0056, Government Code, as added by this Act.

ARTICLE 3. SPECIFIC FUNCTIONS OF HEALTH AND HUMAN SERVICES COMMISSION

SECTION 3.01. Section 531.021(b), Government Code, is amended to read as follows:

(b) The commission shall:

(1) plan and direct the Medicaid program in each agency that operates a portion of the Medicaid program, including the management of the Medicaid managed care system and the development, procurement, management, and monitoring of contracts necessary to implement the Medicaid managed care system;

(2) adopt [~~is responsible for adopting~~] reasonable rules and standards governing the determination of fees, charges, and rates for medical assistance

payments under Chapter 32, Human Resources Code, in consultation[~~. In adopting these rules and standards, the commission shall consult~~] with the agencies that operate the Medicaid program; and

(3) establish requirements for and define the scope of the ongoing evaluation of the Medicaid managed care system conducted in conjunction with the Texas Health Care Information Council under Section 108.0065, Health and Safety Code.

SECTION 3.02. Subchapter B, Chapter 531, Government Code, is amended by adding Sections 531.0246, 531.0247, 531.0248, and 531.0249 to read as follows:

Sec. 531.0246. REGIONAL MANAGEMENT OF HEALTH AND HUMAN SERVICES AGENCIES. Subject to Section 531.0055(c), the commission may require a health and human services agency, under the direction of the commission, to:

(1) locate all or a portion of the agency's employees and programs in the same building as another health and human services agency or at a location near or adjacent to the location of another health and human services agency;

(2) ensure that the agency's location is accessible to disabled employees and agency clients; and

(3) consolidate agency support services, including clerical and administrative support services and information resources support services, with support services provided to or by another health and human services agency.

Sec. 531.0247. ANNUAL BUSINESS PLAN. Subject to Section 531.0055(c), the commission shall develop and implement an annual business services plan for each health and human services region that establishes performance objectives for all health and human services agencies providing services in the region and measures agency effectiveness and efficiency in achieving those objectives.

Sec. 531.0248. COMMUNITY-BASED SUPPORT SYSTEMS. (a) Subject to Section 531.0055(d), the commission shall assist communities in this state in developing comprehensive, community-based support systems for health and human services. At the request of a community, the commission shall provide resources and assistance to the community to enable the community to:

(1) identify and overcome institutional barriers to developing more comprehensive community support systems, including barriers that result from the policies and procedures of state health and human services agencies; and

(2) develop a system of blended funds to allow the community to customize services to fit individual community needs.

(b) At the request of the commission, a health and human services agency shall provide resources and assistance to a community as necessary to perform the commission's duties under Subsection (a).

(c) A health and human services agency that receives or develops a proposal for a community initiative shall submit the initiative to the commission for review and approval. The commission shall review the initiative to ensure that the initiative is consistent with other similar programs

offered in communities and does not duplicate other services provided in the community.

(d) In implementing this section, the commission shall consider models used in other service delivery systems, including the mental health and mental retardation service delivery system.

Sec. 531.0249. ADVISORY COMMITTEE FOR LOCAL GOVERNMENTAL ENTITIES. (a) The commission shall appoint an advisory committee composed of representatives of governmental entities identified under Section 531.022(e).

(b) The advisory committee:

(1) shall advise the commission with respect to establishing flexible and responsive strategies for blending federal, state, and other available funding sources to meet local program needs and service priorities, in implementation of Sections 531.022, 531.024, and 531.0248; and

(2) may assist the commission in performing its other functions under Sections 531.022, 531.024, 531.0248, and 531.028(b)(6).

(c) A member of the advisory committee may not receive compensation, but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the committee, as provided by the General Appropriations Act.

(d) The advisory committee is not subject to Chapter 2110.

SECTION 3.03. Sections 531.0271 and 531.0273, Government Code, are amended to read as follows:

Sec. 531.0271. HEALTH AND HUMAN SERVICES AGENCIES OPERATING BUDGETS. The commission may, within the limits established by and subject to [~~(a) In addition to the provisions of~~] the General Appropriations Act, transfer amounts appropriated to health and human services agencies among the agencies to [~~the commission shall review and comment on~~]:

(1) enhance the receipt of federal money under the federal funds management system established under Section 531.028;

(2) achieve efficiencies in the administrative support functions of the agencies; and

(3) perform the functions assigned to the commissioner under Section 531.0055 [~~the annual operating budget of each health and human services agency; and~~

[~~(2) the transfer of funds between budget strategies made by each health and human services agency before that transfer.~~

[~~(b) The commission shall issue a quarterly report regarding the projected expenditures by budget strategy of each health and human services agency compared to each agency's operating budget~~].

Sec. 531.0273. INFORMATION RESOURCES PLANNING AND MANAGEMENT; ADVISORY COMMITTEE [~~AUTOMATED SYSTEMS~~]. (a) The commission is responsible for strategic planning for information resources at each health and human services agency and shall direct the management of information resources at each health and human services agency. The commission shall:

(1) develop a coordinated strategic plan for information resources management that:

(A) covers a five-year period;

(B) defines objectives for information resources management at each health and human services agency;

(C) prioritizes information resources projects and implementation of new technology for all health and human services agencies;

(D) integrates planning and development of each information resources system used by a health and human services agency into a coordinated information resources management planning and development system established by the commission;

(E) establishes standards for information resources system security and that promotes the ability of information resources systems to operate with each other; and

(F) achieves economies of scale and related benefits in purchasing for health and human services information resources systems;

(2) establish information resources management policies, procedures, and technical standards and ensure compliance with those policies, procedures, and standards; and

(3) review and approve the information resources management and biennial operating plan of each health and human services agency.

(b) Not later than December 15 of each even-numbered year, the commission shall file the coordinated information resources strategic plan with the governor, the lieutenant governor, and the speaker of the house of representatives.

(c) A health and human services agency may not submit its plans to the Department of Information Resources under Subchapter E, Chapter 2054, until those plans are approved by the commission.

(d) The commission shall appoint an advisory committee composed of:

(1) information resources managers for state agencies and for private employers; and

(2) the directors, executive directors, and commissioners of health and human services agencies.

(e) The advisory committee appointed under Subsection (d) shall advise the commission with respect to the implementation of the commission's duties under Subsection (a)(1) and:

(1) shall advise the commission about:

(A) overall goals and objectives for information resources management for all health and human services agencies;

(B) coordination of agency information resources management plans;

(C) development of short-term and long-term strategies for:

(i) implementing information resources management policies, procedures, and technical standards; and

(ii) ensuring compatibility of information resources systems across health and human services agencies as technology changes;

(D) information resources training and skill development for health and human services agency employees and policies to facilitate recruitment and retention of trained employees;

(E) standards for determining:

(i) the circumstances in which obtaining information resources services under contract is appropriate;

(ii) the information resources services functions that must be performed by health and human services agency information resources services employees; and

(iii) the information resources services skills that must be maintained by health and human services agency information resources services employees;

(F) optimization of the use of information resources technology that is in place at health and human services agencies; and

(G) existing and potential future information resources technologies and practices and the usefulness of those technologies and practices to health and human services agencies; and

(2) shall review and make recommendations to the commission relating to the consolidation and improved efficiency of information resources management functions, including:

(A) cooperative leasing of information resources systems equipment;

(B) consolidation of data centers;

(C) improved network operations;

(D) technical support functions, including help desk services, call centers, and data warehouses;

(E) administrative applications;

(F) purchases of standard software;

(G) joint training efforts;

(H) recruitment and retention of trained agency employees;

(I) video conferencing; and

(J) other related opportunities for improved efficiency.

(f) A member of the advisory committee may not receive compensation, but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the committee, as provided by the General Appropriations Act.

(g) The advisory committee is not subject to Chapter 2110.

SECTION 3.04. Section 531.028, Government Code, is amended to read as follows:

Sec. 531.028. MONITORING AND EFFECTIVE MANAGEMENT [~~AND DISTRIBUTION~~] OF FUNDS. (a) The commission, within the limits established by and subject to the General Appropriations Act, shall be responsible for planning for, and managing the use of, all federal funds in a manner that maximizes the federal funding available to the state while promoting the delivery of services.

(b) The commissioner shall establish a federal money management system to coordinate and monitor the use of federal money that is received by health and human services agencies to ensure that the money is spent in the most efficient manner and shall:

(1) establish priorities for use of federal money by all health and human services agencies, in coordination with the coordinated strategic plan established under Section 531.022 and the budget prepared under Section 531.026;

(2) coordinate and monitor the use of federal money for health and human services to ensure that the money is spent in the most cost-effective manner throughout the health and human services system;

(3) review and approve all federal funding plans for health and human services in this state;

(4) estimate available federal money, including earned federal money, and monitor unspent money;

(5) ensure that the state meets federal requirements relating to receipt of federal money for health and human services, including requirements relating to state matching money and maintenance of effort;

(6) transfer appropriated amounts as described by Section 531.0271; and

(7) ensure that each governmental entity identified under Section 531.022(e) has access to complete and timely information about all sources of federal money for health and human services programs and that technical assistance is available to governmental entities seeking grants of federal money to provide health and human services.

(c) The commission shall prepare an annual report with respect to the results of the implementation of this section. The report must identify strategies to maximize the receipt and use of federal funds and to improve federal funds management. The commission shall file the report with the governor, the lieutenant governor, and the speaker of the house of representatives not later than December 15 of each year [~~request budget execution for the transfer of funds from one agency to another;~~

[~~(2) establish a federal health and human services funds management system and maximize the availability of those funds; and~~

[~~(3) review and comment on health and human services agency formulas for the distribution of funds to ensure that the formulas, to the extent permitted by federal law, consider such need factors as client base, population, and economic and geographic factors within the regions of the state~~].

SECTION 3.05. Section 531.0312, Government Code, is amended to read as follows:

Sec. 531.0312. TEXAS INFORMATION AND REFERRAL NETWORK. (a) The Texas Information and Referral Network at the commission is the program responsible for the development, coordination, and implementation of a statewide information and referral network that integrates existing community-based structures with state and local agencies. The network must include information relating to transportation services provided to clients of state and local agencies.

(b) The commission shall cooperate with the Records Management Interagency Coordinating Council and the General Services Commission to establish a single method of categorizing information about health and human services to be used by the Records Management Interagency Coordinating Council and the Texas Information and Referral Network. The network, in cooperation with the council and the General Services Commission, shall ensure that:

(1) information relating to health and human services is included in

each residential telephone directory published by a for-profit publisher and distributed to the public at minimal or no cost; and

(2) the single method of categorizing information about health and human services is used in a residential telephone directory described by Subdivision (1).

(c) A health and human services agency shall provide the Texas Information and Referral Network and the Records Management Interagency Coordinating Council with information about the health and human services provided by the agency for inclusion in the statewide information and referral network, residential telephone directories described by Subsection (b), and any other materials produced under the direction of the network or the council. The agency shall provide the information in the format required by the Texas Information and Referral Network or the Records Management Interagency Coordinating Council and shall update the information at least quarterly or as required by the network or the council.

SECTION 3.06. Section 531.034, Government Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) The commission shall review agency rules:

(1) for compliance with:

(A) [~~(1)~~] the coordinated strategic plan;

(B) [~~(2)~~] existing statutory authority;

(C) [~~(3)~~] rules of other health and human services agencies; and

(D) [~~(4)~~] budgetary implications; and

(2) to ensure that the rules do not:

(A) discourage marriage; or

(B) encourage divorce.

(d) The commission shall adopt rules to establish criteria for determining, as required by Subsection (b), whether an agency rule discourages marriage or encourages divorce.

SECTION 3.07. Section 441.053(j), Government Code, is redesignated as Subsection (j) of Section 441.203, Government Code, as added by Chapter 873, Acts of the 75th Legislature, Regular Session, 1997, and is amended to read as follows:

(j) The council shall categorize state agency programs and telephone numbers by subject matter as well as by agency. The council shall cooperate with the Texas Information and Referral Network under Section 531.0312 to ensure that the council and the network use a single method of defining and organizing information about health and human services. State agencies shall cooperate with the council by providing the council with the information it needs to perform this function.

SECTION 3.08. Section 9.12, Chapter 655, Acts of the 74th Legislature, Regular Session, 1995, as amended by Section 1, Chapter 1116, Acts of the 75th Legislature, Regular Session, 1997, is redesignated as Subchapter F, Chapter 531, Government Code, and amended to read as follows:

SUBCHAPTER F. TEXAS INTEGRATED ENROLLMENT SERVICES

Sec. 531.191 [~~9.12~~]. INTEGRATED ELIGIBILITY DETERMINATION. (a) The commission [~~In consultation and coordination with the Texas~~

~~Integrated Enrollment Services Legislative Oversight Committee established under Section 531.202, Government Code, the Health and Human Services Commission~~], subject to the approval of the governor and the Legislative Budget Board, shall develop and implement a plan for the integration of services and functions relating to eligibility determination and service delivery by health and human services agencies, the Texas Workforce Commission, and other agencies. The plan must include a reengineering of eligibility determination business processes, streamlined service delivery, a unified and integrated process for the transition from welfare to work, and improved access to benefits and services for clients. In developing and implementing the plan, the commission [~~Health and Human Services Commission~~]:

(1) shall give priority to the design and development of computer hardware and software for and provide technical support relating to the integrated eligibility determination system;

(2) shall consult with agencies whose programs are included in the plan, including the Texas Department of Human Services, the Texas Department of Health, and the Texas Workforce Commission;

(3) may contract for appropriate professional and technical assistance; and

(4) may use the staff and resources of agencies whose programs are included in the plan.

(b) The integrated eligibility determination and service delivery system shall be developed and implemented to achieve increased quality of and client access to services and savings in the cost of providing administrative and other services and staff resulting from streamlining and eliminating duplication of services. The commission, subject to any spending limitation prescribed in the General Appropriations Act, may use the resulting savings to further develop the integrated system and to provide other health and human services.

(c) The commission shall examine cost-effective methods to address:

(1) fraud in the assistance programs; and

(2) the error rate in eligibility determination.

(d) On receipt by the state of any necessary federal approval and subject to the approval of the governor and the Legislative Budget Board, the commission may contract for implementation of all or part of the plan required by Subsection (a) [~~of this section~~] if the commission determines that contracting may advance the objectives of Subsections (a) and (b) [~~of this section~~] and meets the criteria set out in the cost-benefit analysis described in this subsection. Before the awarding of a contract, the commission shall provide a detailed cost-benefit analysis to the governor and[;] the Legislative Budget Board[~~, and the Texas Integrated Enrollment Services Legislative Oversight Committee established under Section 531.202, Government Code~~]. The analysis must demonstrate the cost-effectiveness of the plan, mechanisms for monitoring performance under the plan, and specific improvements to the service delivery system and client access made by the plan. The commission shall make the analysis available to the public. Within 10 days after the release of a request for bids, proposals, offers, or other applicable expressions

of interest relating to the development or implementation of the plan required by Subsection (a) [~~of this section~~], the commission shall hold a public hearing and receive public comment on the request. [~~The commission may coordinate with a legislative committee to hold the hearings.~~]

(e) [~~Not later than October 1, 1996, the commission shall develop a plan to consolidate administrative and service delivery functions in addition to the integrated eligibility determination and service delivery system in order to minimize duplication. The commission shall prepare a report of the plan for submission to the governor, the lieutenant governor, the speaker of the house of representatives, the comptroller, and the 75th Legislature when it convenes.~~

[~~(f)~~] If requested by the commission [~~Health and Human Services Commission~~], the agencies whose programs are included in the plan required by Subsection (a) [~~of this section~~] shall cooperate with the commission to provide available staff and resources that will be subject to the direction of the commission.

(f) [~~(g)~~] The design, development, and operation of an automated data processing system to support the plan required by Subsection (a) [~~of this section~~] may be financed through the issuance of bonds or other obligations under the Texas Public Finance Authority Act (Article 601d, Vernon's Texas Civil Statutes).

Sec. 531.192. COORDINATION WITH LEGISLATIVE OVERSIGHT COMMITTEE. (a) The commission shall develop and implement the plan required by Section 531.191 in consultation and coordination with the Texas Integrated Enrollment Services Legislative Oversight Committee established by Section 531.202.

(b) Before awarding a contract under Section 531.191(d), the commission shall provide the detailed cost-benefit analysis described by that subsection to the legislative oversight committee. The commission may coordinate with the legislative oversight committee to hold any hearing required under Section 531.191(d).

(c) This section expires September 1, 2002.

SECTION 3.09. Subchapter D, Chapter 531, Government Code, as added by Chapter 1116, Acts of the 75th Legislature, Regular Session, 1997, is redesignated as Subchapter G, Chapter 531, Government Code, and the subchapter heading is amended to read as follows:

SUBCHAPTER G [~~D~~]. LEGISLATIVE OVERSIGHT FOR TEXAS INTEGRATED ENROLLMENT SERVICES

SECTION 3.10. Section 531.203(a), Government Code, is amended to read as follows:

(a) The committee shall:

(1) meet at the call of the presiding officer;

(2) receive information about rules proposed or adopted by the commission;

(3) review specific recommendations for legislation proposed by the commission; and

(4) hold public hearings concerning the development and implementation of the plan required by Subchapter F [~~Section 9.12(a), Chapter 655, Acts of the 74th Legislature, Regular Session, 1995,~~] in at least four geographically diverse locations in the state.

SECTION 3.11. Section 2155.144, Government Code, as added by Chapter 1045, Acts of the 75th Legislature, Regular Session, 1997, is amended to read as follows:

Sec. 2155.144. PROCUREMENTS BY HEALTH AND HUMAN SERVICES AGENCIES. (a) This section applies only to the Health and Human Services Commission and to each health and human services agency.

(b) An agency to which this section applies is delegated the authority to procure its goods and services, except as provided by this section.

(c) An agency to which this section applies shall acquire goods or services by any procurement method approved by the Health and Human Services Commission that provides the best value to the agency. The agency shall document that it considered all relevant factors under Subsection (d) in making the acquisition.

(d) Subject to Subsection (e), the agency may consider all relevant factors in determining the best value, including:

(1) any installation costs;

(2) the delivery terms;

(3) the quality and reliability of the vendor's goods or services;

(4) the extent to which the goods or services meet the agency's needs;

(5) indicators of probable vendor performance under the contract such as past vendor performance, the vendor's financial resources and ability to perform, the vendor's experience and responsibility, and the vendor's ability to provide reliable maintenance agreements;

(6) the impact on the ability of the agency to comply with laws and rules relating to historically underutilized businesses or relating to the procurement of goods and services from persons with disabilities;

(7) the total long-term cost to the agency of acquiring the vendor's goods or services;

(8) the cost of any employee training associated with the acquisition;

(9) the effect of an acquisition on agency productivity;

(10) the acquisition price; and

(11) any other factor relevant to determining the best value for the agency in the context of a particular acquisition.

(e) If an agency to which this section applies acquires goods or services with a value that exceeds $100,000, the agency shall notify the state auditor and shall consult with and receive approval from the Health and Human Services Commission before considering factors other than price and meeting specifications.

(f) The state auditor may audit the agency's acquisitions of goods and services before or after a warrant is issued to pay for an acquisition.

(g) The agency may adopt rules and procedures for the acquisition of goods and services under this section.

(h) The Health and Human Services Commission shall adopt rules and procedures for the acquisition of goods and services under this section that apply to all health and human services agencies, including rules adopted with the commission's assistance that allow an agency to make purchases through

a group purchasing program except when a better value is available through another procurement method. The rules of the health and human services agencies must be consistent with the rules of the Health and Human Services Commission.

(i) Subject to Section 531.0055(c), the Health and Human Services Commission shall develop a single statewide risk analysis procedure. Each health and human services agency shall comply with the procedure. The procedure must provide for:

(1) assessing the risk of fraud, abuse, or waste in health and human services agencies contractor selection processes, contract provisions, and payment and reimbursement rates and methods for the different types of goods and services for which health and human services agencies contract;

(2) identifying contracts that require enhanced contract monitoring; and

(3) coordinating contract monitoring efforts among health and human services agencies.

(j) Subject to Section 531.0055(c), the Health and Human Services Commission shall publish a contract management handbook that establishes consistent contracting policies and practices to be followed by health and human services agencies. The handbook may include standard contract provisions and formats for health and human services agencies to incorporate as applicable in their contracts.

(k) Subject to Section 531.0055(c), the Health and Human Services Commission, in cooperation with the comptroller, shall establish a central contract management database that identifies each contract made with a health and human services agency. The commission may use the database to monitor health and human services agency contracts, and health and human services agencies may use the database in contracting. A state agency shall send to the commission in the manner prescribed by the commission the information the agency possesses that the commission requires for inclusion in the database.

(l) The Health and Human Services Commission shall coordinate the procurement practices of all health and human services agencies and encourage those agencies to use efficient procurement practices such as the use of a group purchasing program, combining maintenance contracts into one contract, and obtaining prompt payment discounts. In implementing this duty, the Health and Human Services Commission may review the procurement and rate-setting procedures of each health and human services agency to ensure that amounts paid to contractors are consistent and represent the best value for the state. The Health and Human Services Commission may disapprove a procurement and rate-setting procedure of a health and human services agency. A health and human services agency may not use a procurement or rate-setting procedure that has been disapproved by the commission. The Health and Human Services Commission may transfer the procurement functions of a health and human services agency to another appropriate state agency if it determines that transferring those functions would be advantageous to the state. Other state agencies and institutions with experience in acquiring goods and services using the procedures allowed

under Subsections (c) and (d) shall on request assist the Health and Human Services Commission to perform its functions under this section.

(m) Subject to Section 531.0055(c), the Health and Human Services Commission shall develop and implement a statewide plan to ensure that each entity that contracts with a health and human services agency and any subcontractor of the entity complies with the accessibility requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101 et seq.).

(n) [~~(j)~~] To the extent of any conflict, this section prevails over any other state law relating to the procurement of goods and services except a law relating to contracting with historically underutilized businesses or relating to the procurement of goods and services from persons with disabilities.

(o) The Health and Human Services Commission shall prepare an annual report that assesses the compliance of each health and human services agency with the requirements imposed under this section and that identifies any material risk to the state or to the clients of the health and human services agency that results from the agency's procurement and contracting practices. The commission may request the assistance of the state auditor in preparing the report. The state auditor shall conduct reviews as necessary to assess compliance under this subsection as determined by the Legislative Audit Committee. The commission shall file the report with the governor, the lieutenant governor, and the speaker of the house of representatives not later than December 15 of each year.

(p) [~~(k)~~] In this section, "health and human services agency" has the meaning assigned by Section 531.001.

SECTION 3.12. Section 2167.004, Government Code, is amended to read as follows:

Sec. 2167.004. LEASING SPACE FOR HEALTH AND HUMAN SERVICES AGENCIES. (a) Notwithstanding any other provision of this chapter or of Subchapter C, Chapter 2165, the commission may not lease office space to serve the needs of any health and human services agency unless the Health and Human Services Commission has approved the office space for the agency.

(b) The commission may not enter into an emergency lease to serve the needs of a health and human services agency unless the emergency lease is entered into under criteria adopted by the Health and Human Services Commission in consultation with the commission. The criteria must:

(1) encourage advance planning by the health and human services agency to facilitate regional management of health and human services agencies by the Health and Human Services Commission under Section 531.0246; and

(2) ensure that the circumstances that require an emergency lease are outside of the control of the agency and that the agency could not reasonably have been expected to foresee the circumstances.

(c) In this section, "health and human services agency" has the meaning assigned by Section 531.001 [~~means the:~~

[~~(1) Interagency Council on Early Childhood Intervention Services;~~

[~~(2) Texas Department on Aging;~~

[~~(3) Texas Commission on Alcohol and Drug Abuse;~~

[~~(4) Texas Commission for the Blind;~~
[~~(5) Texas Commission for the Deaf and Hearing Impaired;~~
[~~(6) Texas Department of Health;~~
[~~(7) Texas Department of Human Services;~~
[~~(8) Texas Juvenile Probation Commission;~~
[~~(9) Texas Department of Mental Health and Mental Retardation;~~
[~~(10) Texas Rehabilitation Commission; or~~
[~~(11) Department of Protective and Regulatory Services~~].

SECTION 3.13. Not later than January 1, 2000, the Health and Human Services Commission shall adopt the rules required by Section 531.034(d), Government Code, as added by this article.

SECTION 3.14. (a) Not later than December 15, 2000, the Health and Human Services Commission shall submit a report relating to the delivery of mental health and substance abuse services in this state to the governor, the lieutenant governor, the speaker of the house of representatives, and the committees of the house of representatives and senate identified under Section 531.171, Government Code, as added by this Act. The report must include:

(1) a comprehensive inventory of all mental health and substance abuse services provided by state agencies;

(2) the populations to which the services are provided;

(3) the amount of state resources expended on the services;

(4) a comprehensive description of interagency coordination and collaborative initiatives related to those services; and

(5) an assessment of whether any of those services are redundant of other services provided by state agencies.

(b) A health and human services agency or any other state agency that provides mental health or substance abuse services shall provide the Health and Human Services Commission any information, other than confidential information, requested by the commission relating to mental health and substance abuse services provided by the agency.

(c) This section expires December 31, 2000.

SECTION 3.15. (a) Not later than December 15, 2000, the Health and Human Services Commission shall submit a report relating to regulatory programs conducted by the Texas Department of Health to the governor, the lieutenant governor, the speaker of the house of representatives, and the committees of the house of representatives and senate identified under Section 531.171, Government Code, as added by this Act. In preparing the report, the commission must consider whether:

(1) health-related regulatory programs conducted by the Texas Department of Health should be consolidated or restructured;

(2) a new agency, similar to the Texas Department of Licensing and Regulation, should be established to administer all or some of the health-related regulatory programs;

(3) a new agency should be established to administer regulatory programs related to health-related professions;

(4) a new agency should be established to regulate health-related facilities;

(5) the duties of the Health Professions Council should be expanded to encompass all or some of the health-related regulatory programs; or

(6) health-related regulatory programs administered by the Texas Department of Health should continue to be administered by the department without consolidation or restructuring.

(b) This section expires December 31, 2000.

SECTION 3.16. (a) The Health and Human Services Commission shall:

(1) assess the benefits of consolidating support services provided to health and human services agencies in agency headquarters and in regional offices; and

(2) develop a proposed plan and schedule for colocating offices and consolidating support services in accordance with Section 531.0246, Government Code, as added by this article.

(b) Not later than September 1, 2000, the Health and Human Services Commission shall report the results of the assessment, together with the proposed plan and schedule, to the governor, the lieutenant governor, the speaker of the house of representatives, and the committees of the house of representatives and senate identified under Section 531.171, Government Code, as added by this Act.

SECTION 3.17. The Health and Human Services Commission, the General Services Commission, and the Records Management Interagency Coordinating Council shall ensure that information about health and human services presented in the format required by Section 531.0312, Government Code, as amended by this article, is available for publication in residential telephone directories to be distributed to the public after December 1, 2000. Not later than December 31, 2000, the Health and Human Services Commission, the General Services Commission, and the Records Management Interagency Coordinating Council shall each report to the governor, the lieutenant governor, the speaker of the house of representatives, and the committees of the house of representatives and senate identified under Section 531.171, Government Code, as added by this Act, with respect to the implementation of this section.

SECTION 3.18. Notwithstanding Section 2155.144(o), Government Code, as added by this article, the state auditor shall conduct initial reviews as necessary to assess compliance under that subsection and complete those reviews not later than September 1, 2001.

SECTION 3.19. (a) The Health and Human Services Commission shall study the feasibility of a subacute care pilot project. The Texas Department of Human Services and the Texas Department of Health shall cooperate with and assist the commission in this study. In conducting the study, the Health and Human Services Commission shall consider:

(1) estimates of the potential fiscal impact, including the potential to save money;

(2) the impact of subacute care on quality of care;

(3) reimbursement under the state's reimbursement and regulatory policies;

(4) the capacity of facilities in this state to provide subacute care; and

(5) the impact of subacute care reimbursement on Medicaid, including managed care initiatives.

(b) Not later than September 1, 2000, the commission shall submit a report on the feasibility of a subacute care pilot project to the governor, the lieutenant governor, the speaker of the house of representatives, and the chair of each legislative committee with jurisdiction over long-term care.

(c) This section expires September 1, 2001.

ARTICLE 4. INVESTIGATIONS OF FRAUD, ABUSE, AND EXPLOITATION

SECTION 4.01. In this article:

(1) "Commission" means the Health and Human Services Commission.

(2) "Working group" means the working group convened under Section 4.02 of this article.

SECTION 4.02. Except as provided by Section 4.05 of this article, the commission shall identify each health and human services agency that may be required to conduct an investigation of abuse, neglect, or exploitation of a client of the agency at a facility operated by or under contract with the agency and any agency covered under Section 261.401, Family Code, or Section 48.082, Human Resources Code, and shall convene a working group of representatives of those agencies and advocates for the affected clients.

SECTION 4.03. Not later than August 1, 2000, the working group shall develop:

(1) proposed definitions of "abuse," "neglect," and "exploitation";

(2) proposed minimum standards for investigatory techniques for investigations of abuse, neglect, or exploitation of a client; and

(3) proposed uniform data collection procedures, including procedures for collection of information on deaths that occur in the affected facilities.

SECTION 4.04. (a) The commission shall present a report on the results of the working group to the governor, the lieutenant governor, and the speaker of the house of representatives not later than November 1, 2000.

(b) The report must include any recommendations, based on the results of the working group, for changes in law the commission considers necessary.

SECTION 4.05. The working group may not include a representative of the Texas Juvenile Probation Commission and may not include recommendations relating to facilities operated by or under contract with the Texas Juvenile Probation Commission.

ARTICLE 5. GUARDIANSHIP ADVISORY BOARD

SECTION 5.01. Sections 531.122(b) and (d), Government Code, are amended to read as follows:

(b) The advisory board is composed of one representative from each of the health and human services regions, as defined by the commission, three public representatives, and one representative of the Department of Protective and Regulatory Services. The representatives of the health and human services regions are appointed by a majority vote of the judges of the statutory probate courts in each region. If a health and human services region does not contain a statutory probate court, the representative shall be appointed by a majority vote of the judges of the statutory probate courts in the state. The public representatives are appointed by the commissioner and the representative of the Department of Protective and Regulatory Services is appointed by the Board of Protective and Regulatory Services.

(d) A member of the advisory board serves at the pleasure of a majority of the judges of the statutory probate courts that appointed the member, of the commissioner, or of the Board of Protective and Regulatory Services, as appropriate.

SECTION 5.02. Subchapter D, Chapter 531, Government Code, as added by Chapter 1033, Acts of the 75th Legislature, Regular Session, 1997, is amended by adding Section 531.1235 to read as follows:

Sec. 531.1235. ADVISORY BOARD; ADDITIONAL DUTIES; STATEWIDE GUARDIANSHIP SYSTEM. (a) In addition to performing the duties described by Section 531.122, the advisory board shall:

(1) advise the commission and the Department of Protective and Regulatory Services with respect to a statewide guardianship program and develop a proposal for a statewide guardianship program; and

(2) review and comment on the guardianship policies of all health and human services agencies and recommend changes to the policies the advisory board considers necessary or advisable.

(b) The advisory board shall prepare an annual report with respect to the recommendations of the advisory board under Subsection (a). The advisory board shall file the report with the commission, the Department of Protective and Regulatory Services, the governor, the lieutenant governor, and the speaker of the house of representatives not later than December 15 of each year.

SECTION 5.03. Section 531.124, Government Code, is amended by adding Subsection (c) to read as follows:

(c) The advisory board shall annually review and comment on the minimum standards adopted under Subsection (a)(1) and the plan implemented under Subsection (a)(2) and shall include its conclusions in the report submitted under Section 531.1235.

SECTION 5.04. Not later than October 1, 1999, the Board of Protective and Regulatory Services shall appoint the additional members of the Guardianship Advisory Board, as required by Section 531.122, Government Code, as amended by this article.

ARTICLE 6. HEALTH AND HUMAN SERVICES OFFICE OF COMMUNITY TRANSPORTATION SERVICES

SECTION 6.01. Chapter 131, Human Resources Code, is amended to read as follows:

CHAPTER 131. HEALTH AND HUMAN SERVICES OFFICE OF COMMUNITY TRANSPORTATION SERVICES [~~AND PLANNING OFFICE~~]

Sec. 131.001. OFFICE. The Health and Human Services [~~Transportation and Planning~~] Office of Community Transportation Services is in the Health and Human Services Commission.

Sec. 131.002. DEFINITIONS. In this chapter:

(1) "Commissioner" means the commissioner of health and human services.

(2) "Health and human services agency" has the meaning assigned by Section 531.001, Government Code.

(3) "Office" means the Health and Human Services Office of Community Transportation Services.

Sec. 131.003. POWERS AND DUTIES. (a) The office, with assistance from the commissioner, shall:

(1) collect data on health and human services client transportation needs, services, and expenditures;

(2) create a statewide coordination plan regarding a system of transportation for clients of health and human services agencies that provides for coordinated, community-based services, including the designation of local transportation coordinators;

(3) establish a standardized system [~~standards~~] of reporting and accounting to be used by [~~methods for~~] all health and human services agencies providing [~~health and human services~~] client transportation, and ensure that information reported under that system is available through the Texas Information and Referral Network;

(4) maximize federal funds for client transportation through the use of available state funds for matching purposes and the possible use of oil overcharge money and planning funds available through the federal department of transportation;

(5) evaluate the effectiveness of pooling client transportation resources for capital acquisition and the joint purchase of liability insurance;

(6) assist state agencies in coordinating transportation resources;

(7) ensure coordination between the office and the Texas Department of Transportation with regard to the use of funds received by the department under 49 U.S.C. Section 1612(b)(1);

(8) examine the feasibility of consolidating all funding for health and human services client transportation and creating a transportation system through which clients of a state or local agency or program could be matched with the most cost-effective and appropriate transportation services for their needs, including, to the extent practicable, use of private, nonprofit entities that provide services at little or no cost beyond reimbursement for insurance, fuel, mileage, or other expenses that might deter the entities from otherwise providing services;

(9) evaluate the use of existing computer software for use at the local level in client transportation services; and

(10) review the feasibility of taking medical care to those in need, including the use of mobile clinics, and review the possibility of using federal highway funds for those transportation needs.

(b) The office [~~Health and Human Services Transportation and Planning Office~~] shall coordinate with the Health and Human Services Commission and health and human services agencies in implementing the goals listed in Section 531.022(c), Government Code [~~10(b), Article 4413(502), Revised Statutes~~]. The office shall report its findings and proposals to the governor, the Legislative Budget Board, the secretary of state, and the commissioner [~~of health and human services~~] not later than September 1 of each even-numbered year.

Sec. 131.004 [~~131.003~~]. OFFICE STAFF. The commissioner [~~of health and human services~~] shall employ staff needed to carry out the duties of the office.

Sec. 131.005. REPORTING AND ACCOUNTING SYSTEM. Each health

and human services agency that provides, purchases, or otherwise funds transportation services for clients shall:

(1) comply with the standardized system of reporting and accounting established by the office under Section 131.003(a)(3);

(2) make any changes to agency data collection systems that are necessary to enable the agency to comply with the standardized system; and

(3) not later than August 31 of each year, submit to the office a report relating to transportation services that complies with the standardized system.

Sec. 131.006. IMPLEMENTATION OF STATEWIDE COORDINATION PLAN. In order to implement the statewide coordination plan created by the office under Section 131.003(a)(2), the office shall:

(1) review rules, policies, contracts, grants, and funding mechanisms relating to transportation services of each health and human services agency that provides, purchases, or otherwise funds transportation services for clients to determine whether the rules, policies, contracts, grants, and funding mechanisms are consistent with the plan;

(2) make recommendations for revisions to rules, policies, contracts, grants, and funding mechanisms determined under Subdivision (1) to be inconsistent with the plan; and

(3) not later than September 30 of each even-numbered year, submit a report by electronic mail and by hand delivery to the governor, the secretary of state, the Legislative Budget Board, and the commissioner relating to the results of the review conducted by the office under this section.

Sec. 131.007. ADVISORY COMMITTEE ON COORDINATED TRANSPORTATION. The office may create an advisory committee consisting of representatives of state agencies, transportation agencies, and nonprofit consumer groups.

Sec. 131.008. MEMORANDUM OF UNDERSTANDING. (a) The Health and Human Services Commission and the Texas Department of Transportation shall enter into a memorandum of understanding relating to functions performed by each agency that relate to the duties of the office.

(b) The agencies shall include provisions in the memorandum of understanding necessary to ensure that the agencies do not have duplicative authority, responsibilities, or activities in the area of transportation services for clients of health and human services agencies. Specifically, the memorandum of understanding must include the following provisions:

(1) an acknowledgement that the data collection and analysis activities of the office and the Health and Human Services Commission are comprehensive in scope, with the goal of developing a statewide coordination plan for the provision of transportation services for clients of health and human services agencies;

(2) an acknowledgement that the data collection and analysis activities of the Texas Department of Transportation are focused on providing more accurate social service contracting information to transit providers;

(3) a requirement that the Texas Department of Transportation participate and assist in the collection of information about transportation service funding from local social service providers and make any database

with that information available to the Health and Human Services Commission; and

(4) a requirement that the Health and Human Services Commission:

(A) develop standardized reporting methods for health and human services agencies and social service providers to use when reporting information about transportation services, funding, contracting, and all other information needed to develop a statewide coordination plan for transportation services; and

(B) make the information collected under Paragraph (A) available to the Texas Department of Transportation.

SECTION 6.02. Section 459.003, Transportation Code, is amended by amending Subsection (c) and adding Subsection (e) to read as follows:

(c) A social services provider receiving information under Subsection (b) shall, not later than January 1 of each year, provide to the transportation provider and the department an inventory of current contracts and in-house capital resources for the provision of client transportation services within each transportation provider's service area or an area contiguous to the service area that is not served by a transportation provider.

(e) The department will compile a statewide database to document transportation expenses and track the number of instances in which social service contract dollars are actually awarded to a transit operator as a result of compliance with this section. The department shall make the information in the database available to the Health and Human Services Commission.

SECTION 6.03. Not later than January 1, 2001, the Health and Human Services Office of Community Transportation Services and the commissioner of health and human services shall create the statewide coordination plan required by Section 131.003(a)(2), Human Resources Code, as amended by this article.

ARTICLE 7. EMPOWERMENT ZONES AND ENTERPRISE COMMUNITIES

SECTION 7.01. Subchapter B, Chapter 481, Government Code, is amended by adding Section 481.025 to read as follows:

Sec. 481.025. EMPOWERMENT ZONE AND ENTERPRISE COMMUNITY PROGRAM. The department is the agency of this state responsible for administering the Empowerment Zone and Enterprise Community grant program in this state. The department shall cooperate with appropriate federal and local agencies as necessary to administer the grant program.

SECTION 7.02. Effective September 1, 1999, administration of the Empowerment Zone and Enterprise Community grant program in this state is transferred from the Health and Human Services Commission to the Texas Department of Economic Development. The commissioner of health and human services and the governing board of the Texas Department of Economic Development shall enter into a memorandum of understanding as necessary to implement the transfer required by this section.

ARTICLE 8. HEALTH CARE INFORMATION COUNCIL

SECTION 8.01. Section 531.001(4), Government Code, is amended to read as follows:

(4) "Health and human services agencies" includes the:

(A) Interagency Council on Early Childhood Intervention [~~Services~~];

(B) Texas Department on Aging;

(C) Texas Commission on Alcohol and Drug Abuse;

(D) Texas Commission for the Blind;

(E) Texas Commission for the Deaf and Hard of Hearing;

(F) Texas Department of Health;

(G) Texas Department of Human Services;

(H) Texas Juvenile Probation Commission;

(I) Texas Department of Mental Health and Mental Retardation;

(J) Texas Rehabilitation Commission; [~~and~~]

(K) Department of Protective and Regulatory Services; and

(L) Texas Health Care Information Council.

SECTION 8.02. Section 108.002(4), Health and Safety Code, is amended to read as follows:

(4) "Data" means information collected under Section 108.0065 or 108.009 in the form initially received.

SECTION 8.03. Chapter 108, Health and Safety Code, is amended by adding Section 108.0065 to read as follows:

Sec. 108.0065. POWERS AND DUTIES OF COUNCIL RELATING TO MEDICAID MANAGED CARE. (a) In this section:

(1) "Commission" means the Health and Human Services Commission.

(2) "Medicaid managed care organization" means a managed care organization, as defined by Section 533.001, Government Code, that is contracting with the commission to implement the Medicaid managed care program under Chapter 533, Government Code.

(b) The commission may direct the council to collect data under this chapter with respect to Medicaid managed care organizations. The council shall coordinate the collection of the data with the collection of data for health benefit plan providers, but with the approval of the commission may collect data in addition to the data otherwise required of health benefit plan providers.

(c) Each Medicaid managed care organization shall provide the data required by the council in the form required by the council or, if the data is also being submitted to the commission or Medicaid operating agency, in the form required by the commission or Medicaid operating agency.

(d) Dissemination of data collected under this section is subject to Sections 108.010, 108.011, 108.012, 108.013, 108.014, and 108.0141.

(e) The commission shall analyze the data collected in accordance with this section and shall use the data to:

(1) evaluate the effectiveness and efficiency of the Medicaid managed care system;

(2) determine the extent to which Medicaid managed care does or does not serve the needs of Medicaid recipients in this state; and

(3) assess the cost-effectiveness of the Medicaid managed care system

in comparison to the fee-for-service system, considering any improvement in the quality of care provided.

(f) Not later than October 1 of each even-numbered year, the commission shall report to the governor, the lieutenant governor, and the speaker of the house of representatives with respect to:

(1) the commission's conclusions under Subsection (e) and any improvement made in the delivery of services under the Medicaid managed care system since the date of the commission's last report under this section;

(2) recommendations for implementation by the state agencies operating the Medicaid managed care system for improvement to the Medicaid managed care system; and

(3) any recommendations for legislation.

(g) The report made under Subsection (f) may be consolidated with any report made under Section 108.006(a)(9).

(h) The commission, using existing funds, may contract with an entity to comply with the requirements under Subsections (e) and (f).

ARTICLE 9. MEDICAID

SECTION 9.01. Subchapter B, Chapter 12, Health and Safety Code, is amended by adding Section 12.0123 to read as follows:

Sec. 12.0123. EXTERNAL AUDITS OF CERTAIN MEDICAID CONTRACTORS. (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 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 annual 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.

(c) The department shall ensure that audit procedures related to financial audits and performance audits are used consistently in audits under this section.

(d) An audit required by this section must be completed before the end of the fiscal year immediately following the fiscal year for which the audit is performed.

SECTION 9.02. Section 533.003, Government Code, is amended to read as follows:

Sec. 533.003. CONSIDERATIONS IN AWARDING CONTRACTS. In awarding contracts to managed care organizations, the commission shall:

(1) give preference to organizations that have significant participation in the organization's provider network from each health care provider in the region who has traditionally provided care to Medicaid and charity care patients;

(2) give extra consideration to organizations that agree to assure

continuity of care for at least three months beyond the period of Medicaid eligibility for recipients; [~~and~~]

(3) consider the need to use different managed care plans to meet the needs of different populations; and

(4) consider the ability of organizations to process Medicaid claims electronically.

SECTION 9.03. Section 533.004, Government Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) In providing health care services through Medicaid managed care to recipients in a health care service region, the commission shall contract with a [~~at least one~~] managed care organization in that region that is licensed under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code) to provide health care in that region and that is:

(1) wholly owned and operated by a hospital district in that region;

(2) created by a nonprofit corporation that:

(A) has a contract, agreement, or other arrangement with a hospital district in that region or with a municipality in that region that owns a hospital licensed under Chapter 241, Health and Safety Code, and has an obligation to provide health care to indigent patients; and

(B) under the contract, agreement, or other arrangement, assumes the obligation to provide health care to indigent patients and leases, manages, or operates a hospital facility owned by the hospital district or municipality; or

(3) created by a nonprofit corporation that has a contract, agreement, or other arrangement with a hospital district in that region under which the nonprofit corporation acts as an agent of the district and assumes the district's obligation to arrange for services under the Medicaid expansion for children as authorized by Chapter 444, Acts of the 74th Legislature, Regular Session, 1995.

(e) In providing health care services through Medicaid managed care to recipients in a health care service region, with the exception of the Harris service area for the STAR Medicaid managed care program, as defined by the commission as of September 1, 1999, the commission shall also contract with a managed care organization in that region that holds a certificate of authority as a health maintenance organization under Section 5, Texas Health Maintenance Organization Act (Article 20A.05, Vernon's Texas Insurance Code), and that:

(1) is certified under Section 5.01(a), Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes);

(2) is created by The University of Texas Medical Branch at Galveston; and

(3) has obtained a certificate of authority as a health maintenance organization to serve one or more counties in that region from the Texas Department of Insurance before September 2, 1999.

SECTION 9.04. Section 533.005, Government Code, is amended to read as follows:

Sec. 533.005. REQUIRED CONTRACT PROVISIONS. A contract between a managed care organization and the commission for the organization to provide health care services to recipients must contain:

(1) procedures to ensure accountability to the state for the provision of health care services, including procedures for financial reporting, quality assurance, utilization review, and assurance of contract and subcontract compliance;

(2) capitation and provider payment rates that ensure the cost-effective provision of quality health care;

(3) a requirement that the managed care organization provide ready access to a person who assists recipients in resolving issues relating to enrollment, plan administration, education and training, access to services, and grievance procedures;

(4) a requirement that the managed care organization provide ready access to a person who assists providers in resolving issues relating to payment, plan administration, education and training, and grievance procedures;

(5) a requirement that the managed care organization provide information and referral about the availability of educational, social, and other community services that could benefit a recipient;

(6) procedures for recipient outreach and education;

(7) a requirement that the managed care organization make payment to a physician or provider for health care services rendered to a recipient under a managed care plan not later than the 45th day after the date a claim for payment is received with documentation reasonably necessary for the managed care organization to process the claim, or within a period, not to exceed 60 days, specified by a written agreement between the physician or provider and the managed care organization;

(8) a requirement that the commission, on the date of a recipient's enrollment in a managed care plan issued by the managed care organization, inform the organization of the recipient's Medicaid certification [~~recertification~~] date; and

(9) a requirement that the managed care organization comply with Section 533.006 as a condition of contract retention and renewal.

SECTION 9.05. Section 533.006(a), Government Code, is amended to read as follows:

(a) The commission shall require that each managed care organization that contracts with the commission to provide health care services to recipients in a region:

(1) seek participation in the organization's provider network from:

(A) each health care provider in the region who has traditionally provided care to Medicaid recipients; [~~and~~]

(B) each hospital in the region that has been designated as a disproportionate share hospital under the state Medicaid program; and

(C) each specialized pediatric laboratory in the region, including those laboratories located in children's hospitals; and

(2) include in its provider network for not less than three years:

(A) each health care provider in the region who:

(i) previously provided care to Medicaid and charity care recipients at a significant level as prescribed by the commission;

(ii) agrees to accept the prevailing provider contract rate of the managed care organization; and

(iii) has the credentials required by the managed care organization, provided that lack of board certification or accreditation by the Joint Commission on Accreditation of Healthcare Organizations may not be the sole ground for exclusion from the provider network;

(B) each accredited primary care residency program in the region; and

(C) each disproportionate share hospital designated by the commission as a statewide significant traditional provider.

SECTION 9.06. Section 533.007(e), Government Code, is amended to read as follows:

(e) The commission shall conduct a compliance and readiness review of each managed care organization that contracts with the commission not later than the 15th day before the date on which the commission plans to begin the enrollment process in a region and again not later than the 15th day before the date on which the commission plans to begin to provide health care services to recipients in that region through managed care. The review must include an on-site inspection and tests of service authorization and claims payment systems, including the ability of the managed care organization to process claims electronically, complaint processing systems, and any other process or system required by the contract.

SECTION 9.07. Section 533.0075, Government Code, is amended to read as follows:

Sec. 533.0075. RECIPIENT ENROLLMENT. The commission shall:

(1) encourage recipients to choose appropriate managed care plans and primary health care providers by:

(A) providing initial information to recipients and providers in a region about the need for recipients to choose plans and providers not later than the 90th day before the date on which the commission plans to begin to provide health care services to recipients in that region through managed care;

(B) providing follow-up information before assignment of plans and providers and after assignment, if necessary, to recipients who delay in choosing plans and providers; and

(C) allowing plans and providers to provide information to recipients or engage in marketing activities under marketing guidelines established by the commission under Section 533.008 after the commission approves the information or activities;

(2) consider the following factors in assigning managed care plans and primary health care providers to recipients who fail to choose plans and providers:

(A) the importance of maintaining existing provider-patient and physician-patient relationships, including relationships with specialists, public health clinics, and community health centers;

(B) to the extent possible, the need to assign family members to the same providers and plans; and

(C) geographic convenience of plans and providers for recipients; [~~and~~]

(3) retain responsibility for enrollment and disenrollment of recipients

in managed care plans, except that the commission may delegate the responsibility to an independent contractor who receives no form of payment from, and has no financial ties to, any managed care organization;

(4) develop and implement an expedited process for determining eligibility for and enrolling pregnant women and newborn infants in managed care plans;

(5) ensure immediate access to prenatal services and newborn care for pregnant women and newborn infants enrolled in managed care plans, including ensuring that a pregnant woman may obtain an appointment with an obstetrical care provider for an initial maternity evaluation not later than the 30th day after the date the woman applies for Medicaid; and

(6) temporarily assign Medicaid-eligible newborn infants to the traditional fee-for-service component of the state Medicaid program for a period not to exceed the earlier of:

(A) 60 days; or

(B) the date on which the Texas Department of Human Services has completed the newborn's Medicaid eligibility determination, including assignment of the newborn's Medicaid eligibility number.

SECTION 9.08. Subchapter A, Chapter 533, Government Code, is amended by adding Sections 533.012-533.015 to read as follows:

Sec. 533.012. MORATORIUM ON IMPLEMENTATION OF CERTAIN PILOT PROGRAMS; REVIEW; REPORT. (a) Notwithstanding any other law, the commission may not implement Medicaid managed care pilot programs, Medicaid behavioral health pilot programs, or Medicaid Star + Plus pilot programs in a region for which the commission has not:

(1) received a bid from a managed care organization to provide health care services to recipients in the region through a managed care plan; or

(2) entered into a contract with a managed care organization to provide health care services to recipients in the region through a managed care plan.

(b) The commission shall:

(1) review any outstanding administrative and financial issues with respect to Medicaid managed care pilot programs, Medicaid behavioral health pilot programs, and Medicaid Star + Plus pilot programs implemented in health care service regions;

(2) review the impact of the Medicaid managed care delivery system, including managed care organizations, prepaid health plans, and primary care case management, on:

(A) physical access and program-related access to appropriate services by recipients, including recipients who have special health care needs;

(B) quality of health care delivery and patient outcomes;

(C) utilization patterns of recipients;

(D) statewide Medicaid costs;

(E) coordination of care and care coordination in Medicaid Star + Plus pilot programs;

(F) the level of administrative complexity for providers, recipients, and managed care organizations;

(G) public hospitals, medical schools, and other traditional providers of indigent health care; and

(H) competition in the marketplace and network retention; and

(3) evaluate the feasibility of developing a separate reimbursement methodology for public hospitals under a Medicaid managed care delivery system.

(c) In performing its duties and functions under Subsection (b), the commission shall seek input from the state Medicaid managed care advisory committee created under Subchapter C. The commission may coordinate the review required under Subsection (b) with any other study or review the commission is required to complete.

(d) Notwithstanding Subsection (a), the commission may implement Medicaid managed care pilot programs, Medicaid behavioral health pilot programs, and Medicaid Star + Plus pilot programs in a region described by that subsection if the commission finds that:

(1) outstanding administrative and financial issues with respect to the implementation of those programs in health care service regions have been resolved; and

(2) implementation of those programs in a region described by Subsection (a) would benefit both recipients and providers.

(e) Not later than November 1, 2000, the commission shall submit a report to the governor and the legislature that:

(1) states whether the outstanding administrative and financial issues with respect to the pilot programs described by Subsection (b)(1) have been sufficiently resolved;

(2) summarizes the findings of the review conducted under Subsection (b);

(3) recommends which elements of the Medicaid managed care delivery system should be applied to the traditional fee-for-service component of the state Medicaid program to achieve the goals specified in Section 533.002(1); and

(4) recommends whether Medicaid managed care pilot programs, Medicaid behavioral health pilot programs, or Medicaid Star + Plus pilot programs should be implemented in health care service regions described by Subsection (a).

(f) To the extent practicable, this section may not be construed to affect the duty of the commission to plan the continued expansion of Medicaid managed care pilot programs, Medicaid behavioral health pilot programs, and Medicaid Star + Plus pilot programs in health care service regions described by Subsection (a) after July 1, 2001.

(g) This section expires July 1, 2001.

Sec. 533.013. PREMIUM PAYMENT RATE DETERMINATION; REVIEW AND COMMENT. (a) In determining premium payment rates paid to a managed care organization under a managed care plan, the commission shall consider:

(1) the regional variation in costs of health care services;

(2) the range and type of health care services to be covered by premium payment rates;

(3) the number of managed care plans in a region;

(4) the current and projected number of recipients in each region, including the current and projected number for each category of recipient;

(5) the ability of the managed care plan to meet costs of operation under the proposed premium payment rates;

(6) the applicable requirements of the federal Balanced Budget Act of 1997 and implementing regulations that require adequacy of premium payments to managed care organizations participating in the state Medicaid program;

(7) the adequacy of the management fee paid for assisting enrollees of Supplemental Security Income (SSI) (42 U.S.C. Section 1381 et seq.) who are voluntarily enrolled in the managed care plan;

(8) the impact of reducing premium payment rates for the category of recipients who are pregnant; and

(9) the ability of the managed care plan to pay under the proposed premium payment rates inpatient and outpatient hospital provider payment rates that are comparable to the inpatient and outpatient hospital provider payment rates paid by the commission under a primary care case management model or a partially capitated model.

(b) In determining the maximum premium payment rates paid to a managed care organization that is licensed under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code), the commission shall consider and adjust for the regional variation in costs of services under the traditional fee-for-service component of the state Medicaid program, utilization patterns, and other factors that influence the potential for cost savings. For a service area with a service area factor of .93 or less, or another appropriate service area factor, as determined by the commission, the commission may not discount premium payment rates in an amount that is more than the amount necessary to meet federal budget neutrality requirements for projected fee-for-service costs unless:

(1) a historical review of managed care financial results among managed care organizations in the service area served by the organization demonstrates that additional savings are warranted;

(2) a review of Medicaid fee-for-service delivery in the service area served by the organization has historically shown a significant overutilization by recipients of certain services covered by the premium payment rates in comparison to utilization patterns throughout the rest of the state; or

(3) a review of Medicaid fee-for-service delivery in the service area served by the organization has historically shown an above-market cost for services for which there is substantial evidence that Medicaid managed care delivery will reduce the cost of those services.

(c) The premium payment rates paid to a managed care organization that is licensed under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code) shall be established by a competitive bid process but may not exceed the maximum premium payment rates established by the commission under Subsection (b).

(d) Subsection (b) applies only to a managed care organization with respect to Medicaid managed care pilot programs, Medicaid behavioral health

pilot programs, and Medicaid Star + Plus pilot programs implemented in a health care service region after June 1, 1999.

Sec. 533.014. PROFIT SHARING. (a) The commission shall adopt rules regarding the sharing of profits earned by a managed care organization through a managed care plan providing health care services under a contract with the commission under this chapter.

(b) Any amount received by the state under this section shall be deposited in the general revenue fund for the purpose of funding the state Medicaid program.

Sec. 533.015. COORDINATION OF EXTERNAL OVERSIGHT ACTIVITIES. To the extent possible, the commission shall coordinate all external oversight activities to minimize duplication of oversight of managed care plans under the state Medicaid program and disruption of operations under those plans.

SECTION 9.09. Chapter 533, Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. STATEWIDE ADVISORY COMMITTEE

Sec. 533.041. APPOINTMENT AND COMPOSITION. (a) The commission shall appoint a state Medicaid managed care advisory committee. The advisory committee consists of representatives of:

(1) hospitals;

(2) managed care organizations;

(3) primary care providers;

(4) state agencies;

(5) consumer advocates representing low-income recipients;

(6) consumer advocates representing recipients with a disability;

(7) parents of children who are recipients;

(8) rural providers;

(9) advocates for children with special health care needs;

(10) pediatric health care providers, including specialty providers;

(11) long-term care providers, including nursing home providers;

(12) obstetrical care providers;

(13) community-based organizations serving low-income children and their families; and

(14) community-based organizations engaged in perinatal services and outreach.

(b) The advisory committee must include a member of each regional Medicaid managed care advisory committee appointed by the commission under Subchapter B.

Sec. 533.042. MEETINGS. The advisory committee shall meet at least quarterly and is subject to Chapter 551.

Sec. 533.043. POWERS AND DUTIES. The advisory committee shall:

(1) provide recommendations to the commission on the statewide implementation and operation of Medicaid managed care;

(2) assist the commission with issues relevant to Medicaid managed care to improve the policies established for and programs operating under Medicaid managed care, including the early and periodic screening, diagnosis, and treatment program, provider and patient education issues, and patient eligibility issues; and

(3) disseminate or make available to each regional advisory committee appointed under Subchapter B information on best practices with respect to Medicaid managed care that is obtained from a regional advisory committee.

Sec. 533.044. OTHER LAW. Except as provided by this subchapter, the advisory committee is subject to Chapter 2110.

SECTION 9.10. Section 2.07(c), Chapter 1153, Acts of the 75th Legislature, Regular Session, 1997, is amended to read as follows:

(c) As soon as possible after development of the new provider contract, the commission and each agency operating part of the state Medicaid program by rule shall require each provider who enrolled in the program before completion of the new contract to reenroll in the program under the new contract or modify the provider's existing contract in accordance with commission or agency procedures as necessary to comply with the requirements of the new contract. The commission shall study the feasibility of authorizing providers to reenroll in the program online or through other electronic means. On completion of the study, if the commission determines that an online or other electronic method for reenrollment of providers is feasible, the commission shall develop and implement the electronic method of reenrollment for providers not later than September 1, 2000. A provider must reenroll in the state Medicaid program or make the necessary contract modifications not later than March 31, 2000 [~~September 1, 1999~~], to retain eligibility to participate in the program, unless the commission implements under this subsection an electronic method of reenrollment for providers, in which event a provider must reenroll or make the contractual modifications not later than September 1, 2000. The commission by rule may extend a reenrollment deadline prescribed by this subsection if a significant number of providers, as determined by the commission, have not met the reenrollment requirements by the applicable deadline.

SECTION 9.11. (a) Not later than January 1, 2000, the Health and Human Services Commission shall implement the expedited process for determining eligibility for and enrollment of certain recipients in Medicaid managed care plans required by Section 533.0075(4), Government Code, as added by this Act.

(b) The Health and Human Services Commission shall report quarterly to the standing committees of the senate and house of representatives with primary jurisdiction over Medicaid managed care regarding the status of the expedited process described by Subsection (a) of this section. The commission shall submit quarterly reports under this subsection until the commission determines the process is fully implemented and functioning successfully.

SECTION 9.12. This article takes effect only if a specific appropriation for the implementation of this article is provided in H.B. No. 1, Acts of the 76th Legislature, Regular Session, 1999 (General Appropriations Act). If no specific appropriation is provided in H.B. No. 1 (General Appropriations Act), this article has no effect.

ARTICLE 10. FINANCIAL ASSISTANCE AND SERVICE PROGRAMS

SECTION 10.01. Subchapter A, Chapter 31, Human Resources Code, is amended by adding Section 31.0127 to read as follows:

Sec. 31.0127. COORDINATION OF SERVICES TO CERTAIN CLIENTS. (a) The Health and Human Services Commission is the state agency designated to coordinate between the department and another state agency providing child care services, Temporary Assistance for Needy Families work programs, and Food Stamp Employment and Training services to an individual or family who has been referred for programs and services by the department. The purpose of this section is to accomplish the following:

(1) increase the self-sufficiency of recipients of Temporary Assistance for Needy Families and improve the delivery of services to those recipients; and

(2) improve the effectiveness of job-training programs funded under the Job Training Partnership Act (29 U.S.C. Section 1501 et seq.) or a successor program in obtaining employment for individuals receiving Temporary Assistance for Needy Families cash assistance.

(b) The Health and Human Services Commission shall require a state agency providing program services described by Subsection (a) to comply with Chapter 531, Government Code, solely for:

(1) the promulgation of rules relating to the programs described by Subsection (a);

(2) the expenditure of funds relating to the programs described by Subsection (a), within the limitations established by and subject to the General Appropriations Act and federal and other law applicable to the use of the funds;

(3) data collection and reporting relating to the programs described by Subsection (a); and

(4) evaluation of services relating to the programs described by Subsection (a).

(c) The department and a state agency providing program services described by Subsection (a) shall jointly develop and adopt a memorandum of understanding, subject to the approval of the Health and Human Services Commission. The memorandum of understanding must:

(1) outline measures to be taken to increase the number of individuals receiving Temporary Assistance for Needy Families cash assistance who are using job-training programs funded under the Job Training Partnership Act (29 U.S.C. Section 1501 et seq.), or a successor program; and

(2) identify specific measures to improve the delivery of services to clients served by programs described by Subsection (a).

(d) Not later than January 15 of each odd-numbered year, the Health and Human Services Commission shall provide a report to the governor, the lieutenant governor, and the speaker of the house of representatives that:

(1) evaluates the efficiency and effectiveness of client services in the Temporary Assistance for Needy Families program;

(2) evaluates the status of the coordination among agencies and compliance with this section;

(3) recommends measures to increase self-sufficiency of recipients of Temporary Assistance for Needy Families cash assistance and to improve the delivery of services to these recipients; and

(4) evaluates the effectiveness of job-training programs funded under

the Job Training Partnership Act (29 U.S.C. Section 1501 et seq.) or a successor program in obtaining employment outcomes for recipients of Temporary Assistance for Needy Families cash assistance.

(e) Subsection (b) does not authorize the Health and Human Services Commission to require a state agency, other than a health and human services agency, to comply with Chapter 531, Government Code, except as specifically provided by Subsection (b). The authority granted under Subsection (b) does not affect Section 301.041, Labor Code.

(f) If the change in law made by this section with regard to any program or service conflicts with federal law or would have the effect of invalidating a waiver granted under federal law, the state agency is not required to comply with this section with regard to that program or service.

(g) This section does not authorize the Health and Human Services Commission to change the allocation or disbursement of funds allocated to the state under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801 et seq.) in a manner that would result in the loss of exemption status.

(h) This section does not authorize the Health and Human Services Commission to transfer programs to or from the department and another agency serving clients of the Temporary Assistance for Needy Families program or the federal food stamp program administered under Chapter 33 without explicit legislative authorization.

(i) The Health and Human Services Commission and any state agency providing program services described by Subsection (a) may not promulgate rules in accordance with Subsection (b)(1) without holding a public hearing.

SECTION 10.02. Not later than October 1, 1999, the Health and Human Services Commission and each state agency subject to Section 31.0127, Human Resources Code, as added by this article, shall develop and adopt the memorandum of understanding required by that section.

ARTICLE 11. LEGISLATIVE OVERSIGHT

SECTION 11.01. Chapter 531, Government Code, is amended by adding Subchapter E to read as follows:

SUBCHAPTER E. HEALTH AND HUMAN SERVICES LEGISLATIVE OVERSIGHT

Sec. 531.171. COMMITTEE DUTIES. (a) The standing or other committees of the house of representatives and the senate that have jurisdiction over the Health and Human Services Commission and other agencies relating to implementation of this chapter, as identified by the speaker of the house of representatives and the lieutenant governor, shall:

(1) monitor the commission's implementation of Section 531.0055 and the commission's other duties in consolidating and integrating health and human services to ensure implementation consistent with law;

(2) recommend, as needed, adjustments to the implementation of Section 531.0055 and the commission's other duties in consolidating and integrating health and human services; and

(3) review the rulemaking process used by the commission, including the commission's plan for obtaining public input.

(b) The commission shall provide copies of all required reports to the committees and shall provide the committees with copies of proposed rules

before the rules are published in the Texas Register. At the request of a committee or the commissioner, a health and human services agency shall provide other information to the committee, including information relating to the health and human services system, and shall report on agency progress in implementing statutory directives identified by the committee and the directives of the commission.

SECTION 11.02. (a) The committees of the house of representatives and senate identified under Section 531.171, Government Code, as added by this article, shall report to the governor, the lieutenant governor, and the speaker of the house of representatives not later than December 31, 2000.

(b) The report must include:

(1) an evaluation and analysis of the implementation of Section 531.0055, Government Code, as added by this Act, and the Health and Human Services Commission's other duties in consolidating and integrating health and human services, with recommendations for action by the commissioner;

(2) the status of the implementation of Section 531.0055, Government Code, as added by this Act, and the commission's other duties in consolidating and integrating health and human services; and

(3) recommendations for legislative action, including legislation to further consolidate health and human services agency functions as appropriate.

ARTICLE 12. APPLICATION OF ACT

SECTION 12.01. Unless an appropriate federal waiver has been granted, if a change in law made by this Act with regard to any program or service conflicts with federal law, the Health and Human Services Commission may not require an agency to comply with the change with regard to that program or service.

SECTION 12.02. Notwithstanding any provision of this Act, the Health and Human Services Commission, in consultation with the appropriate policymaking body, shall ensure that:

(1) all necessary federal waivers and approvals have been obtained to implement the provisions of this Act;

(2) direct client services are not decreased as a direct result of the implementation of this Act;

(3) any colocation of offices between health and human services agencies complies with state and federal laws relating to building accessibility for the disabled;

(4) a public comment process on agency operations is established for each agency and that at least one meeting of the policy board provides an opportunity for public input on agency operations;

(5) allocations of federal funding conform to the General Appropriations Act and other applicable law; and

(6) each agency's priorities, in addition to the overall priorities of the Health and Human Services Commission, are communicated to the legislature and the governor before and during the biennial appropriations process.

ARTICLE 13. REPEALER; EFFECTIVE DATE; EMERGENCY

SECTION 13.01. The following laws are repealed:

(1) Section 441.053(k), Government Code;

(2) Section 531.0272, Government Code; and

(3) Section 532.011(c), Health and Safety Code.

SECTION 13.02. This Act takes effect September 1, 1999.

SECTION 13.03. 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 Gray moved to adopt the conference committee report on **HB 2641**.

The motion prevailed. (Burnam, Chavez, Coleman, Y. Davis, Deshotel, Dukes, Dutton, Edwards, Ehrhardt, Farrar, Flores, Garcia, Giddings, Gutierrez, Hinojosa, Hodge, J. Jones, G. Lewis, Longoria, Luna, Maxey, McClendon, Najera, Noriega, Olivo, Puente, Rangel, Salinas, J. Solis, J. F. Solis, Thompson, S. Turner, Van de Putte, Wilson, and Yarbrough recorded voting no)

HB 801 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Uher submitted the following conference committee report on **HB 801**:

Austin, Texas, May 29, 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 801** 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	Uher
Sibley	Chisum
Brown	Maxey
	Zbranek
On the part of the Senate	On the part of the House

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.

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

SECTION 1. Section 5.115(a), Water Code, is amended to read as follows:

(a) For the purpose of an administrative hearing held by or for the commission involving a contested case, "affected person," or "person affected," or "person who may be affected" means a person who has a personal justiciable interest related to a legal right, duty, privilege, power, or economic interest affected by the administrative hearing. An interest common to members of the general public does not qualify as a personal justiciable

interest. [~~The commission is not required to hold a hearing if the commission determines that the basis of a person's request for a hearing as an affected person is not reasonable or is not supported by competent evidence.~~] The commission shall adopt rules specifying factors which must be considered in determining whether a person is an affected person in any contested case arising under the air, waste, or water programs within the commission's jurisdiction and whether an affected association is entitled to standing in contested case hearings.

SECTION 2. Chapter 5, Water Code, is amended by adding Subchapter M to read as follows:

SUBCHAPTER M. ENVIRONMENTAL PERMITTING PROCEDURES

Sec. 5.551. PERMITTING PROCEDURES; APPLICABILITY. (a) This subchapter establishes procedures for providing public notice, an opportunity for public comment, and an opportunity for public hearing under Subchapters C-H, Chapter 2001, Government Code, regarding commission actions relating to a permit issued under Chapter 26 or 27 of this code or Chapter 361, Health and Safety Code. This subchapter is procedural and does not expand or restrict the types of commission actions for which public notice, an opportunity for public comment, and an opportunity for public hearing are provided under Chapter 26 or 27 of this code or Chapter 361, Health and Safety Code.

(b) The commission by rule shall provide for additional notice, opportunity for public comment, or opportunity for hearing to the extent necessary to satisfy a requirement for United States Environmental Protection Agency authorization of a state permit program.

(c) In this subchapter, "permit" means a permit, approval, registration, or other form of authorization required by law for a person to engage in an action.

Sec. 5.552. NOTICE OF INTENT TO OBTAIN PERMIT. (a) The executive director shall determine when an application is administratively complete.

(b) Not later than the 30th day after the date the executive director determines the application to be administratively complete:

(1) the applicant shall publish notice of intent to obtain a permit at least once in the newspaper of largest circulation in the county in which the facility to which the application relates is located or proposed to be located; and

(2) the chief clerk of the commission shall mail notice of intent to obtain a permit to:

(A) the state senator and representative who represent the general area in which the facility is located or proposed to be located;

(B) the mayor and health authorities of the municipality in which the facility is located or proposed to be located;

(C) the county judge and health authorities of the county in which the facility is located or proposed to be located; and

(D) the river authority in which the facility is located or proposed to be located if the application is under Chapter 26, Water Code.

(c) The commission by rule shall establish the form and content of the notice. The notice must include:

(1) the location and nature of the proposed activity;

(2) the location at which a copy of the application is available for review and copying as provided by Subsection (e);

(3) a description, including a telephone number, of the manner in which a person may contact the commission for further information;

(4) a description, including a telephone number, of the manner in which a person may contact the applicant for further information;

(5) a description of the procedural rights and obligations of the public, printed in a font style or size that clearly provides emphasis and distinguishes it from the remainder of the notice;

(6) a description of the procedure by which a person may be placed on a mailing list in order to receive additional information about the application;

(7) the time and location of any public meeting to be held under Subsection (f); and

(8) any other information the commission by rule requires.

(d) In addition to providing notice under Subsection (b)(1), the applicant shall comply with any applicable public notice requirements under Chapters 26 and 27 of this code, Chapter 361, Health and Safety Code, and rules adopted under those chapters.

(e) The applicant shall make a copy of the application available for review and copying at a public place in the county in which the facility is located or proposed to be located.

(f) The applicant, in cooperation with the executive director, may hold a public meeting in the county in which the facility is located or proposed to be located in order to inform the public about the application and obtain public input.

Sec. 5.553. PRELIMINARY DECISION; NOTICE AND PUBLIC COMMENT. (a) The executive director shall conduct a technical review of and issue a preliminary decision on the application.

(b) The applicant shall publish notice of the preliminary decision in a newspaper.

(c) The commission by rule shall establish the form and content of the notice, the manner of publication, and the duration of the public comment period. The notice must include:

(1) the information required by Sections 5.552(c)(1)-(5);

(2) a summary of the preliminary decision;

(3) the location at which a copy of the preliminary decision is available for review and copying as provided by Subsection (e);

(4) a description of the manner in which comments regarding the preliminary decision may be submitted; and

(5) any other information the commission by rule requires.

(d) In addition to providing notice under this section, the applicant shall comply with any applicable public notice requirements under Chapters 26 and 27 of this code, Chapter 361, Health and Safety Code, and rules adopted under those chapters.

(e) The applicant shall make a copy of the preliminary decision available for review and copying at a public place in the county in which the facility is located or proposed to be located.

Sec. 5.554. PUBLIC MEETING. During the public comment period, the executive director may hold one or more public meetings in the county in which the facility is located or proposed to be located. The executive director shall hold a public meeting:

(1) on the request of a member of the legislature who represents the general area in which the facility is located or proposed to be located; or

(2) if the executive director determines that there is substantial public interest in the proposed activity.

Sec. 5.555. RESPONSE TO PUBLIC COMMENTS. (a) The executive director, in accordance with procedures provided by commission rule, shall file with the chief clerk of the commission a response to each relevant and material public comment on the preliminary decision filed during the public comment period.

(b) The chief clerk of the commission shall transmit the executive director's decision, the executive director's response to public comments, and instructions for requesting that the commission reconsider the executive director's decision or hold a contested case hearing to:

(1) the applicant;

(2) any person who submitted comments during the public comment period; and

(3) any person who requested to be on the mailing list for the permit action.

Sec. 5.556. REQUEST FOR RECONSIDERATION OR CONTESTED CASE HEARING. (a) A person may request that the commission reconsider the executive director's decision or hold a contested case hearing. A request must be filed with the commission during the period provided by commission rule.

(b) The commission shall act on a request during the period provided by commission rule.

(c) The commission may not grant a request for a contested case hearing unless the commission determines that the request was filed by an affected person as defined by Section 5.115.

(d) The commission may not refer an issue to the State Office of Administrative Hearings for a hearing unless the commission determines that the issue:

(1) involves a disputed question of fact;

(2) was raised during the public comment period; and

(3) is relevant and material to the decision on the application.

(e) If the commission grants a request for a contested case hearing it shall:

(1) limit the number and scope of the issues to be referred to the State Office of Administrative Hearings for a hearing; and

(2) consistent with the nature and number of the issues to be considered at the hearing, specify the maximum expected duration of the hearing.

(f) This section does not preclude the commission from holding a hearing if it determines that the public interest warrants doing so.

SECTION 3. Subchapter B, Chapter 26, Water Code, is amended by adding Section 26.0286 to read as follows:

Sec. 26.0286. PROCEDURES APPLICABLE TO PERMITS FOR CERTAIN CONCENTRATED ANIMAL FEEDING OPERATIONS. (a) In this section, "sole-source surface drinking water supply" means a body of surface water that:

(1) is designated as a public water supply in rules adopted by the commission under Section 26.023; and

(2) is the single source of supply of a public water supply system, exclusive of emergency water interconnections.

(b) The commission shall process an application for authorization to construct or operate a concentrated animal feeding operation as a specific permit under Section 26.028 subject to the procedures provided by Subchapter M, Chapter 5, if the concentrated animal feeding operation is located or proposed to be located:

(1) in the watershed of a sole-source surface drinking water supply; and

(2) sufficiently close, as determined by the commission by rule, to an intake of a public water supply system in the sole-source surface drinking water supply that contaminants discharged from the concentrated animal feeding operation could potentially affect the public drinking water supply.

SECTION 4. Section 361.088, Health and Safety Code, is amended by amending Subsection (c) and by adding Subsections (e) and (f) to read as follows:

(c) Except as provided by Subsection (e), before [~~Before~~] a permit is issued, amended, extended, or renewed, the commission shall provide an opportunity for a hearing to the applicant and persons affected. The commission may also hold a hearing on its own motion.

(e) After complying with Sections 5.552-5.555, Water Code, the commission, without providing an opportunity for a contested case hearing, may act on an application to renew a permit for:

(1) storage of hazardous waste in containers, tanks, or other closed vessels if the waste:

(A) was generated on-site; and

(B) does not include waste generated from other waste transported to the site; and

(2) processing of hazardous waste if:

(A) the waste was generated on-site;

(B) the waste does not include waste generated from other waste transported to the site; and

(C) the processing does not include thermal processing.

(f) Notwithstanding Subsection (e), if the commission determines that an applicant's compliance history for the preceding five years raises an issue regarding the applicant's ability to comply with a material term of its permit, the commission shall provide an opportunity to request a contested case hearing.

SECTION 5. Section 382.056, Health and Safety Code, is amended by amending Subsections (a), (b), (d), and (e) and adding Subsections (f)-(p) to read as follows:

(a) An applicant for a permit under Section 382.0518 or [~~382.054 or~~] a permit renewal review under Section 382.055 shall publish notice of intent

to obtain the permit or permit review not later than the 30th day after the date the commission determines the application to be administratively complete. The commission by rule shall [~~may~~] require an applicant for a federal operating permit under Section 382.054 to publish notice of intent to obtain a permit or permit review consistent with federal requirements and with the requirements of Subsection (b) [~~this section~~]. The applicant shall publish the notice at least once in a newspaper of general circulation in the municipality in which the facility or federal source is located or is proposed to be located or in the municipality nearest to the location or proposed location of the facility or federal source. If the elementary or middle school nearest to the facility or proposed facility provides a bilingual education program as required by Subchapter B, Chapter 29, Education Code, the applicant shall also publish the notice at least once in an additional publication of general circulation in the municipality or county in which the facility is located or proposed to be located that is published in the language taught in the bilingual education program. This requirement is waived if such a publication does not exist or if the publisher refuses to publish the notice. The commission by rule shall prescribe the form and content of the notice and when notice must be published. The commission [~~and~~] may require publication of additional notice. The commission by rule shall prescribe alternative procedures for publication of the notice in a newspaper if the applicant is a small business stationary source as defined by Section 382.0365 and will not have a significant effect on air quality. The alternative procedures must be cost-effective while ensuring adequate notice. Notice required to be published under this section shall only be required to be published in the United States.

(b) The notice must include:

(1) a description of the location or proposed location of the facility or federal source;

(2) the location at which a copy of the application is available for review and copying as provided by Subsection (d) [~~a statement that a person who may be affected by emissions of air contaminants from the facility, proposed facility, or federal source is entitled to request a hearing from the commission~~];

(3) a description, including a telephone number, of the manner in which the commission may be contacted for further information; [~~and~~]

(4) a description, including a telephone number, of the manner in which the applicant may be contacted for further information;

(5) a description of the procedural rights and obligations of the public, printed in a font style or size that clearly provides emphasis and distinguishes it from the remainder of the notice, that includes a statement that a person who may be affected by emissions of air contaminants from the facility, proposed facility, or federal source is entitled to request a hearing from the commission;

(6) a description of the procedure by which a person may be placed on a mailing list in order to receive additional information about the application;

(7) the time and location of any public meeting to be held under Subsection (e); and

(8) any other information the commission by rule requires.

(d) The applicant shall make a copy of the application available for review and copying at a public place in the county in which the facility or federal source is located or proposed to be located.

(e) The applicant, in cooperation with the executive director, may hold a public meeting in the county in which the facility or federal source is located or proposed to be located in order to inform the public about the application and obtain public input.

(f) The executive director shall conduct a technical review of and issue a preliminary decision on the application.

(g) If, in response to the notice published under Subsection (a) for a permit under Section 382.0518 or a permit renewal review under Section 382.055, a person requests during the period provided by commission rule that the commission hold a public hearing and the request is not withdrawn before the date the preliminary decision is issued, the applicant shall publish notice of the preliminary decision in a newspaper, and the commission shall seek public comment on the preliminary decision. The commission shall consider the request for public hearing under the procedures provided by Subsections (i)-(n). The commission may not seek further public comment or hold a public hearing under the procedures provided by Subsections (i)-(n) in response to a request for a public hearing on [~~Except as provided by Section 382.0561 or Subsection (e), the commission or its delegate shall hold a public hearing on the permit application or permit renewal application before granting the permit or renewal if a person who may be affected by the emissions, or a member of the legislature from the general area in which the facility or proposed facility is located, requests a hearing within the period set by commission rule. The commission shall not hold a hearing if the basis of a request by a person who may be affected is determined to be unreasonable. Reasons for which a request for a hearing on a permit amendment, modification, or renewal shall be considered to be unreasonable include, but are not limited to,~~] an amendment, modification, or renewal that would not result in an increase in allowable emissions and would not result in the emission of an air contaminant not previously emitted.

(h) If, in response to the notice published under Subsection (a) for a permit under Section 382.054, a person requests during the public comment period provided by commission rule that the commission hold a public hearing, the commission shall consider the request under the procedures provided by Section 382.0561 and not under the procedures provided by Subsections (i)-(n).

(i) The commission by rule shall establish the form and content of the notice, the manner of publication, and the duration of the public comment period. The notice must include:

(1) the information required by Subsection (b);

(2) a summary of the preliminary decision;

(3) the location at which a copy of the preliminary decision is available for review and copying as provided by Subsection (j);

(4) a description of the manner in which comments regarding the preliminary decision may be submitted; and

(5) any other information the commission by rule requires.

(j) The applicant shall make a copy of the preliminary decision available for review and copying at a public place in the county in which the facility is located or proposed to be located.

(k) During the public comment period, the executive director may hold one or more public meetings in the county in which the facility is located or proposed to be located. The executive director shall hold a public meeting:

(1) on the request of a member of the legislature who represents the general area in which the facility is located or proposed to be located; or

(2) if the executive director determines that there is substantial public interest in the proposed activity.

(l) The executive director, in accordance with procedures adopted by the commission by rule, shall file with the chief clerk of the commission a response to each relevant and material public comment on the preliminary decision filed during the public comment period.

(m) The chief clerk of the commission shall transmit the executive director's decision, the executive director's response to public comments, and instructions for requesting that the commission reconsider the executive director's decision or hold a contested case hearing to:

(1) the applicant;

(2) any person who submitted comments during the public comment period;

(3) any person who requested to be on the mailing list for the permit action; and

(4) any person who timely filed a request for a public hearing in response to the notice published under Subsection (a).

(n) Except as provided by Section 382.0561, the commission shall consider a request that the commission reconsider the executive director's decision or hold a public hearing in accordance with the procedures provided by Section 5.556, Water Code.

(o) [~~(e)~~] Notwithstanding other provisions of this chapter, the commission may hold a hearing on a permit amendment, modification, or renewal if the commission [~~board~~] determines that the application involves a facility for which the applicant's compliance history contains violations which are unresolved and which constitute a recurring pattern of egregious conduct which demonstrates a consistent disregard for the regulatory process, including the failure to make a timely and substantial attempt to correct the violations.

(p) The commission by rule shall provide for additional notice, opportunity for public comment, or opportunity for public hearing to the extent necessary to satisfy a requirement to obtain or maintain delegation or approval of a federal program.

SECTION 6. Section 2003.047, Government Code, is amended by amending Subsections (e)-(j) and adding Subsections (k)-(o) to read as follows:

(e) In referring a matter for hearing [~~When the office receives jurisdiction of a proceeding~~], the commission shall provide to the administrative law judge a list of disputed issues. The commission shall specify the date by which the administrative law judge is expected to complete the proceeding

and provide a proposal for decision to the commission. The administrative law judge may extend the proceeding if the administrative law judge determines that failure to grant an extension would deprive a party of due process or another constitutional right. The administrative law judge shall establish a docket control order designed to complete the proceeding by the date specified by the commission.

(f) Except as otherwise provided by this subsection, the scope of the hearing is limited to the issues referred by the commission. On the request of a party, the administrative law judge may consider an issue that was not referred by the commission if the administrative law judge determines that:

(1) the issue is material;

(2) the issue is supported by evidence; and

(3) there are good reasons for the failure to supply available information regarding the issue during the public comment period.

(g) The scope of permissible discovery is limited to:

(1) any matter reasonably calculated to lead to the discovery of admissible evidence regarding any issue referred to the administrative law judge by the commission or that the administrative law judge has agreed to consider; and

(2) the production of documents:

(A) reviewed or relied on in preparing application materials or selecting the site of the proposed facility; or

(B) relating to the ownership of the applicant or the owner or operator of the facility or proposed facility.

(h) The commission by rule shall:

(1) provide for subpoenas and commissions for depositions; and

(2) require that discovery be conducted in accordance with the Texas Rules of Civil Procedure, except that the commission by rule shall determine the level of discovery under Rule 190, Texas Rules of Civil Procedure, appropriate for each type of case considered by the commission, taking into account the nature and complexity of the case.

(i) [~~or areas that must be addressed. In addition, the commission may identify and provide to the administrative law judge at any time additional issues or areas that must be addressed.~~

[~~(f)~~] The office and the commission jointly shall adopt rules providing for certification to the commission of an issue that involves an ultimate finding of compliance with or satisfaction of a statutory standard the determination of which is committed to the discretion or judgment of the commission by law. The rules must address, at a minimum, the issues that are appropriate for certification and the procedure to be used in certifying the issue. Each agency shall publish the jointly adopted rules.

(j) [~~(g)~~] An administrative law judge hearing a case on behalf of the commission, on the judge's own motion or on motion of a party and after notice and an opportunity for a hearing, may impose appropriate sanctions as provided by Subsection (k) [~~(h)~~] against a party or its representative for:

(1) filing a motion or pleading that is groundless and brought:

(A) in bad faith;

(B) for the purpose of harassment; or

(C) for any other improper purpose, such as to cause unnecessary delay or needless increase in the cost of the proceeding;

(2) abuse of the discovery process in seeking, making, or resisting discovery; or

(3) failure to obey an order of the administrative law judge or the commission.

(k) [~~(h)~~] A sanction imposed under Subsection (j) [~~(g)~~] may include, as appropriate and justified, issuance of an order:

(1) disallowing further discovery of any kind or of a particular kind by the offending party;

(2) charging all or any part of the expenses of discovery against the offending party or its representatives;

(3) holding that designated facts be considered admitted for purposes of the proceeding;

(4) refusing to allow the offending party to support or oppose a designated claim or defense or prohibiting the party from introducing designated matters in evidence;

(5) disallowing in whole or in part requests for relief by the offending party and excluding evidence in support of those requests; and

(6) striking pleadings or testimony, or both, in whole or in part.

(l) [~~(i)(1)~~] After hearing evidence and receiving legal argument, an administrative law judge shall make findings of fact, conclusions of law, and any ultimate findings required by statute, all of which shall be separately stated. The administrative law judge shall make a proposal for decision to the commission and shall serve the proposal for decision on all parties. An opportunity shall be given to each party to file exceptions to the proposal for decision and briefs related to the issues addressed in the proposal for decision. The commission shall consider and act on the proposal for decision.

(m) [~~(2)~~] Except as provided in Section 361.0832, Health and Safety Code, the commission shall consider the proposal for decision prepared by the administrative law judge, the exceptions of the parties, and the briefs and argument of the parties. The commission may amend the proposal for decision, including any finding of fact, but any such amendment thereto and order shall be based solely on the record made before the administrative law judge. Any such amendment by the commission shall be accompanied by an explanation of the basis of the amendment. The commission may also refer the matter back to the administrative law judge to reconsider any findings and conclusions set forth in the proposal for decision or take additional evidence or to make additional findings of fact or conclusions of law. The commission shall serve a copy of the commission's order, including its finding of facts and conclusions of law, on each party.

(n) [~~(3)~~] The provisions of Chapter 2001[~~,~~] shall apply to contested case hearings for the commission to the extent not inconsistent with this section.

(o) [~~(j)~~] An administrative law judge hearing a case on behalf of the commission may not, without the agreement of all parties, issue an order referring the case to an alternative dispute resolution procedure if the commission has already conducted an unsuccessful alternative dispute resolution procedure. If the commission has not already conducted an

alternative dispute resolution procedure, the administrative law judge shall consider the commission's recommendation in determining whether to issue an order referring the case to the procedure.

SECTION 7.

(a) This Act takes effect September 1, 1999.

(b) The changes in law made by this Act apply only to an application to issue, amend, or renew a permit that is declared to be administratively complete on or after the effective date of this Act. An application to issue, amend, or renew a permit that was declared to be administratively complete before the effective date of this Act is governed by the former law, and that law is continued in effect for that purpose.

(c) The changes in law made by Section 5 of this Act do not expand or restrict the types of actions of the Texas Natural Resource Conservation Commission for which public notice, an opportunity for public comment, and an opportunity for public hearing under Subchapters C-H, Chapter 2001, Government Code, are provided under Chapter 382, Health and Safety Code.

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Representative Uher moved to adopt the conference committee report on **HB 801**.

The motion prevailed without objection.

HB 932 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hawley submitted the following conference committee report on **HB 932**:

Austin, Texas, May 29, 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 932** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Shapleigh	Hawley
Bernsen	Alexander
Jackson	Noriega
Shapiro	Uher
Haywood	

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

HB 932, A bill to be entitled An Act relating to the use of towing safety chains.

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

SECTION 1. Sections 545.410(a), (b), and (d), Transportation Code, are amended to read as follows:

(a) An operator of a passenger car or light truck may not draw a trailer, semitrailer, [~~or~~] house trailer, or another motor vehicle unless safety chains of a type approved by the department are attached in a manner approved by the department from the trailer, semitrailer, [~~or~~] house trailer, or drawn motor vehicle to the drawing vehicle. This subsection does not apply to the drawing of a trailer or semitrailer used for agricultural purposes.

(b) The department shall adopt rules prescribing the type of safety chains required to be used according to the weight of the trailer, semitrailer, [~~or~~] house trailer, or motor vehicle being drawn. The rules shall:

(1) require safety chains to be strong enough to maintain the connection between the trailer, semitrailer, [~~or~~] house trailer, or drawn motor vehicle and the drawing vehicle; and

(2) show the proper method to attach safety chains between the trailer, semitrailer, [~~or~~] house trailer, or drawn motor vehicle and the drawing vehicle.

(d) This section does not apply to a trailer, semitrailer, [~~or~~] house trailer, or drawn motor vehicle that is operated in compliance with the federal motor carrier safety regulations.

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 Hawley moved to adopt the conference committee report on **HB 932**.

The motion prevailed without objection.

HB 2510 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Dukes submitted the following conference committee report on **HB 2510**:

Austin, Texas, May 29, 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 2510** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Shapleigh	Dukes
Bernsen	Brimer
Brown	George
Sibley	Ritter
West	
On the part of the Senate	On the part of the House

HB 2510, A bill to be entitled An Act relating to the administration and operation of the workers' compensation program of this state.

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

SECTION 1. Section 401.013(a), Labor Code, is amended to read as follows:

(a) In this subtitle, "intoxication" means the state of:

(1) having an alcohol concentration to qualify as intoxicated under [~~defined by~~] Section 49.01(2), Penal Code[~~, of 0.10 or more~~]; or

(2) not having the normal use of mental or physical faculties resulting from the voluntary introduction into the body of:

(A) an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code;

(B) a controlled substance or controlled substance analogue, as defined by Section 481.002, Health and Safety Code;

(C) a dangerous drug, as defined by Section 483.001, Health and Safety Code;

(D) an abusable glue or aerosol paint, as defined by Section 485.001, Health and Safety Code; or

(E) any similar substance, the use of which is regulated under state law.

SECTION 2. Section 401.023(b), Labor Code, is amended to read as follows:

(b) The commission shall compute and publish the interest and discount rate quarterly, using the auction rate quoted on a discount basis for the 52-week treasury bills issued by the United States government, as published by the Federal Reserve Board on the date nearest to the 15th day preceding the first day of the calendar quarter for which the rate is to be effective, plus 3.5 percent. For this purpose, calendar quarters begin January 1, April 1, July 1, and October 1.

SECTION 3. Sections 402.011(b) and (c), Labor Code, are amended to read as follows:

(b) A member is entitled to reimbursement for actual lost wages or use of leave benefits, if any, for:

(1) attendance at commission meetings and hearings[~~, not to exceed one day in each calendar quarter~~];

(2) preparation for a commission meeting, not to exceed two days in each calendar quarter;

(3) attendance at a subcommittee meeting, not to exceed one day each month;

(4) attendance by the chair or vice chair of the commission at a legislative committee meeting if attendance is requested by the committee chair; and

(5) attendance at a meeting by a member appointed to the Research and Oversight Council on Workers' Compensation or the Texas Certified Self-Insured Guaranty [~~Guarantee~~] Association.

(c) Reimbursement under Subsection (b) may not exceed $100 a day and $5,000 [~~$12,000~~] a year.

SECTION 4. Section 402.062, Labor Code, is amended to read as follows:

Sec. 402.062. ACCEPTANCE OF GIFTS, GRANTS, AND DONATIONS. (a) The commission may accept gifts, grants, or donations as provided by rules adopted by the commission.

(b) Notwithstanding Chapter 575, Government Code, the commission may accept a grant paid from the Texas Workers' Compensation Insurance Fund established under Article 5.76-3, Insurance Code, to implement specific steps to control and lower medical costs in the workers' compensation system and to ensure the delivery of quality medical care. The commission must publish the name of the grantor and the purpose and conditions of the grant in the Texas Register and provide for a 20-day public comment period before the commission may accept the grant. The commission shall acknowledge acceptance of the grant at a public meeting. The minutes of the public meeting must include the name of the grantor, a description of the grant, and a general statement of the purposes for which the grant will be used.

SECTION 5. Section 402.085(a), Labor Code, is amended to read as follows:

(a) The commission shall release information on a claim to:

(1) the Texas Department of Insurance for any statutory or regulatory purpose;

(2) a legislative committee for legislative purposes;

(3) a state or federal elected official requested in writing to provide assistance by a constituent who qualifies to obtain injury information under Section 402.084(b), if the request for assistance is provided to the commission;

(4) the Research and Oversight Council on Workers' Compensation [~~research center~~] for research purposes; or

(5) the attorney general or another entity that provides child support services under Part D, Title IV, Social Security Act (42 U.S.C. Section 651 et seq.), [~~or Chapter 76, Human Resources Code,~~] relating to:

(A) establishing, modifying, or enforcing a child support or medical support obligation; or

(B) locating an absent parent.

SECTION 6. Section 404.007(a), Labor Code, is amended to read as follows:

(a) The board shall:

(1) approve the operating budget of the council;

(2) adopt rules for the operations of the board and the council;

(3) conduct professional studies and research on all matters relevant to the cost, quality, and operational effectiveness of the workers' compensation system;

(4) monitor the cost of income benefits under this subtitle, with emphasis on the availability and cost of supplemental income benefits;

(5) monitor the performance and operation of the Texas Workers' Compensation Insurance Fund, with emphasis on the insurer of last resort program;

(6) hold regular public hearings and receive testimony and reports from:

(A) the commission;

(B) the Texas Workers' Compensation Insurance Fund;

(C) [~~the Texas workers' compensation insurance facility;~~

[~~(D)~~] the Texas Department of Insurance;

(D) [~~(E)~~] the State Office of Risk Management [~~office of the attorney general~~]; and

(E) [~~(F)~~] any other public or private entity that is involved in the workers' compensation system;

(7) receive information about workers' compensation rules and operations of an entity listed in Subdivision (6); and

(8) review specific recommendations for legislation relating to the Texas Workers' Compensation Act formally proposed by an entity listed in Subdivision (6).

SECTION 7. Section 404.010, Labor Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) As required to fulfill the objectives of the council, the council is entitled to access to the files and records of:

(1) the commission;

(2) the Texas Workforce [~~Employment~~] Commission;

(3) the Texas Department of Insurance;

(4) the Texas Department of Human Services;

(5) [~~the Texas workers' compensation insurance facility;~~

[~~(6)~~] the Texas Workers' Compensation Insurance Fund; and

(6) [~~(7)~~] other state agencies.

(d) The identity of an individual or entity selected to participate in a council survey or who participates in such a survey is confidential and is not subject to public disclosure under Chapter 552, Government Code.

SECTION 8. Sections 408.004(e) and (f), Labor Code, are amended to read as follows:

(e) An employee who, without good cause as determined by the commission, fails or refuses to appear at the time scheduled for an examination under Subsection (a) or (b) commits a violation. A violation under this subsection is a Class D administrative violation. An employee is not entitled to temporary income benefits, and an insurance carrier may suspend the payment of temporary income benefits, during and for a period in which the employee fails to submit to an examination under Subsection (a) or (b) unless the commission determines that the employee had good cause for the failure to submit to the examination. The commission may order temporary income benefits to be paid for the period that the commission determines the employee had good cause. The commission by rule shall ensure that an employee receives reasonable notice of an examination and of the insurance carrier's basis for suspension of payment, and that the employee is provided a reasonable opportunity to reschedule an examination missed by the employee for good cause. [~~If the report of a doctor selected by an insurance carrier indicates that the employee can return to work immediately, the commission shall schedule a benefit review conference on the next available docket. The insurance carrier may not suspend medical or income benefit payments pending the benefit review conference.~~]

(f) If the report of a doctor selected by an insurance carrier indicates that

an employee can return to work immediately or has reached maximum medical improvement, the insurance carrier may suspend or reduce the payment of temporary income benefits on the 14th day after the date on which the insurance carrier files a notice of suspension with the commission as provided by this subsection. The commission shall hold an expedited benefit review conference, by personal appearance or by telephone, not later than the 10th day after the date on which the commission receives the insurance carrier's notice of suspension. If a benefit review conference is not held by the 14th day after the date on which the commission receives the insurance carrier's notice of suspension, an interlocutory order, effective from the date of the report certifying maximum medical improvement, is automatically entered for the continuation of temporary income benefits until a benefit review conference is held, and the insurance carrier is eligible for reimbursement for any overpayment of benefits as provided by Chapter 410. The commission is not required to automatically schedule a contested case hearing as required by Section 410.025(b) if a benefit review conference is scheduled under this subsection. If a benefit review conference is held not later than the 14th day, the commission may enter an interlocutory order for the continuation of benefits, and the insurance carrier is eligible for reimbursement for any overpayments of benefits as provided by Chapter 410. The commission shall adopt rules as necessary to implement this subsection under which:

(1) an insurance carrier is required to notify the employee and the treating doctor of the suspension of benefits under this subsection by certified mail or another verifiable delivery method;

(2) the commission makes a reasonable attempt to obtain the treating doctor's opinion before the commission makes a determination regarding the entry of an interlocutory order; and

(3) the commission may allow abbreviated contested case hearings by personal appearance or telephone to consider issues relating to overpayment of benefits under this section [~~An employee who, without good cause, fails or refuses to appear at the time scheduled for an examination under Subsection (a) or (b) commits a violation. A violation under this subsection is a Class D administrative violation~~].

SECTION 9. Section 408.025(d), Labor Code, is amended to read as follows:

(d) On the request of an injured employee, the employee's attorney, or the insurance carrier, a health care provider [~~facility~~] shall furnish records relating to treatment or hospitalization for which compensation is being sought. The commission may regulate the charge for furnishing a report or record, but the charge may not be less than the fair and reasonable charge for furnishing the report or record. A health care provider [~~facility~~] may disclose to the insurance carrier of an affected employer records relating to the diagnosis or treatment of the injured employee without the authorization of the injured employee to determine the amount of payment or the entitlement to payment.

SECTION 10. Section 408.027(a), Labor Code, is amended to read as follows:

(a) An insurance carrier shall pay the fee allowed under Section 413.011 [~~charged~~] for a service rendered by a health care provider not later than the 45th day after the date the insurance carrier receives the charge unless the amount of the payment or the entitlement to payment is disputed.

SECTION 11. Section 408.081, Labor Code, is amended to read as follows:

Sec. 408.081. INCOME BENEFITS. (a) An employee is entitled to income benefits as provided in this chapter.

(b) Except as otherwise provided by this section or this subtitle, income benefits shall be paid weekly as and when they accrue without order from the commission. Interest on accrued but unpaid benefits shall be paid, without order of the commission, at the time the accrued benefits are paid.

(c) The commission by rule shall establish requirements for agreements under which income benefits may be paid monthly. Income benefits may be paid monthly only:

(1) on the request of the employee and the agreement of the employee and the insurance carrier; and

(2) in compliance with the requirements adopted by the commission.

(d) An employee's entitlement to income benefits under this chapter terminates on the death of the employee. An interest in future income benefits does not survive after the employee's death.

SECTION 12. Section 408.124, Labor Code, is amended by amending Subsection (b) and by adding Subsection (c) to read as follows:

(b) For [~~The commission shall use for~~] determining the existence and degree of an employee's impairment, the commission shall use "Guides to the Evaluation of Permanent Impairment," third edition, second printing, dated February 1989, published by the American Medical Association.

(c) Notwithstanding Subsection (b), the commission by rule may adopt the fourth edition of the "Guides to the Evaluation of Permanent Impairment," published by the American Medical Association, for determining the existence and degree of an employee's impairment.

SECTION 13. Section 408.150(b), Labor Code, is amended to read as follows:

(b) An employee who refuses services or refuses to cooperate with services provided under this section loses entitlement to supplemental [~~supplementary~~] income benefits.

SECTION 14. Section 408.161, Labor Code, is amended by adding Subsection (d) to read as follows:

(d) An insurance carrier may pay lifetime income benefits through an annuity if the annuity agreement meets the terms and conditions for annuity agreements adopted by the commission by rule. The establishment of an annuity under this subsection does not relieve the insurance carrier of the liability under this title for ensuring that the lifetime income benefits are paid.

SECTION 15. Section 408.181, Labor Code, is amended by adding Subsections (c) and (d) to read as follows:

(c) The commission by rule shall establish requirements for agreements under which death benefits may be paid monthly. Death benefits may be paid monthly only:

(1) on the request of the legal beneficiary and the agreement of the legal beneficiary and the insurance carrier; and

(2) in compliance with the requirements adopted by the commission.

(d) An insurance carrier may pay death benefits through an annuity if the annuity agreement meets the terms and conditions for annuity agreements adopted by the commission by rule. The establishment of an annuity under this subsection does not relieve the insurance carrier of the liability under this title for ensuring that the death benefits are paid.

SECTION 16. Section 408.186(a), Labor Code, is amended to read as follows:

(a) If the death of an employee results from a compensable injury, the insurance carrier shall pay to the person who incurred liability for the costs of burial the lesser of:

(1) the actual costs incurred for reasonable burial expenses; or

(2) $6,000 [~~$2,500~~].

SECTION 17. Section 413.005(b), Labor Code, is amended to read as follows:

(b) The medical advisory committee is composed of members appointed by the commission as follows:

(1) a representative of a public health care facility;

(2) a representative of a private health care facility;

(3) a doctor of medicine;

(4) a doctor of osteopathic medicine;

(5) a chiropractor;

(6) a dentist;

(7) a physical therapist;

(8) a pharmacist;

(9) a podiatrist;

(10) an occupational therapist;

(11) a medical equipment supplier;

(12) a registered nurse;

(13) a representative of employers;

(14) a representative of employees; [~~and~~]

(15) a representative of an insurance carrier; and

(16) two representatives of the general public.

SECTION 18. Section 504.012(a), Labor Code, is amended to read as follows:

(a) A political subdivision may cover volunteer fire fighters, police officers, emergency medical personnel, and other volunteers that are specifically named. A person covered under this subsection is entitled to full medical benefits and the minimum compensation payments under the law. Notwithstanding any other law, the governing body of the political subdivision may elect to provide compensation payments to a person covered under this subsection that are greater than the minimum benefits provided under this title.

SECTION 19. Article 5.61, Insurance Code, is amended to read as follows:

Art. 5.61. ADEQUATE RESERVES. (a) Each workers' compensation

insurer transacting business in this state shall maintain reserves in an amount estimated in the aggregate to provide for the payment of all losses and claims incurred, whether reported or unreported, but not in an amount greater than reasonably required for those purposes. The reserves shall be computed in accordance with any rules adopted [~~approved~~] by the commissioner [~~Board~~] for the purpose of adequately protecting the insureds, securing the solvency of the insurer, and preventing unreasonably large reserves.

(b) [~~Each workers' compensation insurer shall provide a separate report to the Board showing its year-end loss, expense, and unearned premium reserves for workers' compensation insurance results in this state. The report must be filed not later than June 30 of each year and must show the reserve development over a period of years sufficiently long to allow the Board to determine whether the reserves are adequate, inadequate, or unreasonably large. The report shall be audited by an independent certified public accountant in accordance with generally accepted auditing standards and the rules of the Board. The reserve amounts reported may be taken from an audited financial report prepared by an independent auditor as prescribed by law.~~

[~~(c)~~] If the reserves are determined to be inadequate, the commissioner [~~Board~~] shall notify the insurer and require the insurer to establish and maintain reasonable additional reserves. If the reserves are determined to be unreasonably large, the commissioner [~~Board~~] shall notify the insurer and require the insurer to reduce its reserves to a reasonable amount.

(c) [~~(d)~~] Not later than the 60th day after the date of the notification by the commissioner [~~Board~~] that its reserves have been determined not to be in compliance with the requirements of this article, the insurer shall restore compliance and file a statement of restored compliance, together with such documentation as the commissioner [~~Board~~] may require.

SECTION 20. Section 13, Article 5.76-3, Insurance Code, is amended by adding Subsection (l) to read as follows:

(l) Notwithstanding any other law, the fund may issue grants to the Texas Workers' Compensation Commission as provided by Section 402.062, Labor Code. The amount of the grant is not to exceed $2.2 million for the four-year period of September 1, 1999, through September 1, 2003. This subsection expires September 1, 2003.

SECTION 21. (a) Except as otherwise provided by this section, this Act takes effect September 1, 1999.

(b) Section 401.013(a), Labor Code, as amended by this Act, applies only to a claim for workers' compensation benefits based on a compensable injury that occurs on or after the effective date of this Act. A claim based on a compensable injury that occurs before that date is governed by the law in effect on the date that the compensable injury occurred, and the former law is continued in effect for that purpose.

(c) Section 401.023(b), Labor Code, as amended by this Act, takes effect October 1, 1999.

(d) Section 408.004, Labor Code, as amended by this Act, takes effect January 1, 2000, and applies only to required medical examinations scheduled to occur on or after that date.

(e) Sections 408.081, 408.161, and 408.181, Labor Code, as amended by this Act, take effect September 1, 1999, and apply only to an agreement regarding payment of workers' compensation income benefits or death benefits that is entered into on or after that date.

(f) Section 408.186(a), Labor Code, as amended by this Act, applies only to a claim for workers' compensation burial benefits based on a compensable injury that occurs on or after the effective date of this Act. A claim based on a compensable injury that occurs before that date is governed by the law in effect on the date that the compensable injury occurred, and the former law is continued in effect for that purpose.

SECTION 22. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Representative Dukes moved to adopt the conference committee report on **HB 2510**.

The motion prevailed without objection. (Giddings, Hodge and S. Turner recorded voted no)

HB 2553 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hochberg submitted the following conference committee report on **HB 2553**:

Austin, Texas, May 29, 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 2553** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Sibley	Hochberg
Jackson	Lengefeld
Cain	Smith
	Olivo
	Dunnam
On the part of the Senate	On the part of the House

HB 2553, A bill to be entitled An Act relating to performance reviews of school districts by the comptroller.

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

SECTION 1. Section 403.020, Government Code, is amended to read as follows:

Sec. 403.020. PERFORMANCE REVIEW OF SCHOOL DISTRICTS [~~SCHOOL DISTRICT BUDGET REVIEW~~]. (a) The comptroller may

periodically review the effectiveness and efficiency of the budgets and operations of school districts. A review of a school district may be initiated by the comptroller or by the request of the school district. A review may be initiated by a school district only by resolution adopted by a majority of the members of the board of trustees of the district.

(b) If a review is initiated by the school district, the district shall pay 25 percent of the cost incurred in conducting the review.

(c) The comptroller shall:

(1) prepare a report showing the results of each review conducted under this section;

(2) file the report with the school district, the governor, the lieutenant governor, the speaker of the house of representatives, the chairs of the standing committees of the senate and of the house of representatives with jurisdiction over public education, and the commissioner of education; and

(3) make the entire report and a summary of the report available to the public on the Internet.

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 Hochberg moved to adopt the conference committee report on **HB 2553**.

The motion prevailed without objection.

HR 1340 - ADOPTED
(by McCall)

The following privileged resolution was laid before the house:

HR 1340

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 3211**, relating to state fiscal matters, to consider and take action on the following specific matters:

(1) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add additional text not included in either the house or senate version of the bill, consisting of a new article of the bill, to read as follows:

ARTICLE 2. TECHNICAL CHANGES REGARDING TAXES AND FEES

SECTION 2.01. Subsection (g), Article 102.075, Code of Criminal Procedure, is amended to read as follows:

(g) A municipality or county may retain 10 percent of the money collected under this article as a service fee for the collection if the municipality or county remits the funds to the comptroller within the period prescribed in Subsection (f). The municipality or county may retain any interest accrued on the money if the custodian of the money deposited in

the treasury keeps records of the amount of money collected under this article that is on deposit in the treasury and remits the funds to the comptroller within the period prescribed in Subsection (f).

SECTION 2.02. Section 403.014(b), Government Code, is amended to read as follows:

(b) The report must include:

(1) an analysis of each special provision that reduces the amount of tax payable, to include an estimate of the loss of revenue for a six-year period including the current fiscal biennium and a citation of the statutory or legal authority for the provision; and

(2) for provisions reducing revenue by more than one percent of total revenue for a tax covered by this section:

(A) [;] the effect of each provision on the distribution of the tax burden by income class and industry or business class, as appropriate; and

(B) the effect of each provision on total income by income class.

SECTION 2.03. Section 403.0141(c), Government Code, is amended to read as follows:

(c) To the extent data is available, the incidence impact analysis under Subsections (a) and (b):

(1) shall evaluate the tax burden:

(A) on the overall income distribution, using a systemwide incidence measure or other appropriate measures of equality and inequality; and

(B) on income classes, including, at a minimum, quintiles of the income distribution, on renters and homeowners, on industry or business classes, as appropriate, and on various types of business organizations;

(2) may evaluate the tax burden:

(A) by other appropriate taxpayer characteristics, such as whether the taxpayer is a farmer, rancher, retired elderly, or resident or nonresident of the state; and

(B) by distribution of impact on consumers, labor, capital, and out-of-state persons and entities; [~~and~~]

(3) shall evaluate the effect of each tax on total income by income group; and

(4) shall:

(A) use the broadest measure of economic income for which reliable data is available; and

(B) include a statement of the incidence assumptions that were used in making the analysis.

SECTION 2.04. Section 12(b), Article 1.14-1, Insurance Code, is amended to read as follows:

(b) The report shall be filed and any tax due shall be paid by the insured or by any other person designated by the insured. The report and tax are due on or before May 15 [~~March 1~~] of the calendar year after the calendar year in which the insurance was procured, continued, or renewed or on another date prescribed by the comptroller.

SECTION 2.05. Sections 12(a) and (b), Article 1.14-2, Insurance Code, are amended to read as follows:

(a) The premiums charged for surplus lines insurance are subject to a premium receipts tax of 4.85 percent of gross premiums charged for such insurance. The term premium includes all premiums, membership fees, assessments, dues or any other consideration for insurance. Such tax shall be in lieu of all other insurance taxes. The surplus lines agent shall collect from the insured the amount of the tax at the time of delivery of the cover note, certificate of insurance, policy or other initial confirmation of insurance, in addition to the full amount of the gross premium charged by the insurer for the insurance. No agent shall absorb such tax nor shall any agent, as an inducement for insurance or for any other reason, rebate all or any part of such tax or his commission. The surplus lines agent shall file a report and pay taxes to the comptroller on or before March 1 of each year on forms prescribed by the comptroller. The [~~the~~] amount of taxes shall be based on gross premiums written or received for such insurance placed through an eligible surplus lines insurer during the calendar year ending on the preceding December 31. A tax prepayment shall be required any time accrued taxes due equal or exceed $70,000. The prepayment of the accrued taxes, with a form prescribed by the comptroller, shall be due by the 15th day of the month following the month in which accrued taxes total $70,000 [~~and shall pay to the comptroller the tax as provided for by this Article~~]. If a surplus lines policy covers risks or exposures only partially in this state, the tax payable shall be computed on the portions of the premium which are properly allocated to the risks or exposures located in this state. In determining the amount of premiums taxable in this state, all premiums written, procured, or received in this state and all premiums on policies negotiated in this state shall be deemed written on property or risks located or resident in this state, except such premiums as are properly allocated or apportioned and reported as premiums which may be subject to taxation by any other state or states. Premiums that are properly allocated to any other state or states that are specifically exempt from taxation under the regulations of that state or states are not taxable in this state. Premiums on risks or exposures which are properly allocated to federal waters, international waters or under the jurisdiction of a foreign government shall not be taxable by this state. In event of cancellation and rewriting of any surplus lines insurance contract the additional premium for premium receipts tax purposes shall be the premium in excess of the unearned premium of the canceled insurance contract.

(b) All surplus lines premium receipt taxes collected by a surplus lines agent are trust funds in his hands [~~and the property of this state. Such funds shall be maintained by the surplus lines agent in a separate account and shall not be mingled with any other funds, either business or private~~]. Any surplus lines agent who fails or refuses to pay over to the state the surplus lines premium receipts tax at the time required by [~~in~~] this section, or who fraudulently withholds or appropriates or otherwise uses such money or any portions thereof belonging to the state is guilty of theft and shall be punished as provided by law for the crime of theft, irrespective of whether any such surplus lines agent has or claims to have any interest in such money so received by him.

SECTION 2.06. Section 9(b), Texas State College and University

Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code), is amended to read as follows:

(b) Premiums on policies, insurance contracts, or agreements with health maintenance organizations established under this Act are not subject to any state tax, regulatory fee, or surcharge, including premium or maintenance taxes or fees.

SECTION 2.07. Section 11(b), Texas Public School Employees Group Insurance Act (Article 3.50-4, Insurance Code), is amended to read as follows:

(b) A premium or contribution on a policy, insurance contract, or agreement authorized as provided by this article is not subject to any state tax, regulatory fee, or surcharge, including premium or maintenance taxes or fees.

SECTION 2.08. Section 326.029(a), Local Government Code, is amended to read as follows:

(a) If a majority of the votes received in the election favor the creation of the district and the adoption of the sales and use tax, the commissioners court shall by resolution or order declare that the district is created and shall declare the amount of the local sales and use tax adopted and enter the result in its minutes.

SECTION 2.09. Section 326.092(a), Local Government Code, is amended to read as follows:

(a) Chapter 323, Tax Code, to the extent not inconsistent with this chapter, governs the imposition, computation, administration, and governance of the tax under this subchapter, except that Sections 323.101, 323.105, [~~and~~] 323.404, and 323.406 through 323.408, Tax Code, do not apply.

SECTION 2.10. Section 101.003, Tax Code, is amended by adding Subdivision (13) to read as follows:

(13) "Tax" means a tax, fee, assessment, charge, or other amount that the comptroller is authorized to administer.

SECTION 2.11. Section 111.0041(b), Tax Code, is amended to read as follows:

(b) This section prevails over any other conflicting provision of this title [~~except Section 191.024(b) of this code~~].

SECTION 2.12. Section 111.023, Tax Code, is amended to read as follows:

Sec. 111.023. WRITTEN AUTHORIZATION. (a) The comptroller may require that a report, return, declaration, claim for refund, or other document that is required or permitted to be filed with the comptroller and that is submitted by an attorney, accountant, or other representative of a taxpayer [~~person~~] on behalf of the taxpayer [~~person~~] be accompanied by express written authorization of the taxpayer [~~person~~] in whose name or on whose behalf it is purportedly submitted.

(b) An officer, director, or employee of the taxpayer whose duties include administering the taxpayer's rights and responsibilities with the comptroller may sign the written authorization. The authorization must include the title and telephone number of the officer, director, or employee who signs the authorization for verification by the comptroller.

(c) The comptroller may impose a requirement of Subsection (b) on a taxpayer's assignment of a claim for refund.

SECTION 2.13. Section 111.104(e), Tax Code, is amended to read as follows:

(e) This section applies to all taxes and license fees collected or administered by the comptroller, except the state property tax [~~and those taxes that qualify for refund allowed under Section 151.318(g) or (n)~~].

SECTION 2.14. Section 111.107, Tax Code, is amended to read as follows:

Sec. 111.107. WHEN REFUND OR CREDIT IS PERMITTED. Except as otherwise expressly provided, a person may request a refund or a credit or the comptroller may make a refund or issue a credit for the overpayment of a tax imposed by this title at any time before the expiration of the period during which the comptroller may assess a deficiency for the tax and not thereafter unless the refund or credit is requested:

(1) under Subchapter B of Chapter 112 and the refund is made or the credit is issued under a court order;

(2) under the provision of Section 111.104(c)(3) applicable to a refund claim filed after a jeopardy or deficiency determination becomes final; or

(3) under Chapter 153, except Section 153.1195(e), 153.121(d), 153.2225(e), or 153.224(d)[~~; or~~

[~~(4) under Section 151.318(g) or (n)~~].

SECTION 2.15. Sections 151.310(c) and (e), Tax Code, are amended to read as follows:

(c) An organization that qualifies for an exemption under Subsection (a)(1) or (a)(2) of this section, and each bona fide chapter of the organization, may hold two tax-free sales or auctions under this subsection during a calendar year and each tax-free sale or auction may continue for one day only. The sale of a taxable item the sales price of which is $5,000 or less by a qualified organization or chapter of the organization at a tax-free sale or auction is exempted from the sales tax imposed by Subchapter C of this chapter, except that a taxable item manufactured by or donated to the qualified organization or chapter of the organization may be sold tax free regardless of the sales price to any purchaser other than the donor. The storage, use, or consumption of a taxable item that is acquired from a qualified organization or chapter of the organization at a tax-free sale or auction and that is exempted under this subsection from the taxes imposed by Subchapter C of this chapter is exempted from the use tax imposed by Subchapter D of this chapter until the item is resold or subsequently transferred.

(e) A nonprofit hospital or hospital system that qualifies for an exemption under Subsection (a)(2) shall provide community benefits that include charity care and government-sponsored indigent health care [~~community benefits~~] as set forth in Subchapter D, Chapter 311, Health and Safety Code. [~~Subdivision (1), (2), (3), (4), (5), (6), (7), or (8) below:~~

[~~(1) charity care and government-sponsored indigent health care are provided at a level which is reasonable in relation to the community needs, as determined through the community needs assessment, the available resources of the hospital or hospital system, and the tax-exempt benefits received by the hospital or hospital system;~~

[~~(2) charity care and government-sponsored indigent health care are provided in an amount equal to at least four percent of the hospital's or hospital system's net patient revenue;~~

[~~(3) charity care and government-sponsored indigent health care are provided in an amount equal to at least 100 percent of the hospital's or hospital system's tax-exempt benefits, excluding federal income tax;~~

[~~(4) for tax periods beginning before January 1, 1996, charity care and community benefits are provided in a combined amount equal to at least five percent of the hospital's or hospital system's net patient revenue, provided that charity care and government-sponsored indigent health care are provided in an amount equal to at least three percent of net patient revenue;~~

[~~(5) for tax periods beginning after December 31, 1995, charity care and community benefits are provided in a combined amount equal to at least five percent of the hospital's or hospital system's net patient revenue, provided that charity care and government-sponsored indigent health care are provided in an amount equal to at least four percent of net patient revenue;~~

[~~(6) a nonprofit hospital that has been designated as a disproportionate share hospital under the state Medicaid program in the current year or in either of the previous two fiscal years is considered to have provided a reasonable amount of charity care and government-sponsored indigent health care and is considered in compliance with the standards provided by this subsection;~~

[~~(7) a hospital operated on a nonprofit basis that is located in a county with a population of less than 50,000 and in which the entire county or the population of the entire county has been designated as a health professionals shortage area is considered to be in compliance with the standards provided by this subsection; or~~

[~~(8) a hospital providing health care services to inpatients or outpatients without receiving any payment for providing those services from any source, including the patient or person legally obligated to support the patient, third-party payors, Medicare, Medicaid, or any other state or local indigent care program but excluding charitable donations, legacies, bequests, or grants or payments for research, is considered to be in compliance with the standards provided by this subsection.~~

[~~For purposes of satisfying Subdivision (5), a hospital or hospital system may not change its existing fiscal year unless the hospital or hospital system changes its ownership or corporate structure as a result of a sale or merger.~~

[~~For purposes of this subsection, a hospital that satisfies Subdivision (1), (6), (7), or (8) shall be excluded in determining a hospital system's compliance with the standards provided by Subdivision (2), (3), (4), or (5).~~

[~~For purposes of this subsection, the terms "charity care," "government-sponsored indigent health care," "health care organization," "hospital system," "net patient revenue," "nonprofit hospital," and "tax-exempt benefits" have the meanings set forth in Sections 311.031 and 311.042, Health and Safety Code. A determination of the amount of community benefits and charity care and government-sponsored indigent health care provided by a hospital or hospital system and the hospital's or hospital system's compliance with the requirements of this subsection and Section 311.045, Health and Safety Code,~~

~~shall be based on the most recently completed and audited prior fiscal year of the hospital or hospital system.~~

[~~The providing of charity care and government-sponsored indigent health care in accordance with Subdivision (1) shall be guided by the prudent business judgment of the hospital which will ultimately determine the appropriate level of charity care and government-sponsored indigent health care based on the community needs, the available resources of the hospital, the tax-exempt benefits received by the hospital, and other factors that may be unique to the hospital, such as the hospital's volume of Medicare and Medicaid patients. These criteria shall not be determinative factors, but shall be guidelines contributing to the hospital's decision along with other factors which may be unique to the hospital. The formulas contained in Subdivisions (2), (3), (4), and (5) shall also not be considered determinative of a reasonable amount of charity care and government-sponsored indigent health care.~~

[~~The requirements of this subsection shall not apply to the extent a hospital or hospital system demonstrates that reductions in the amount of community benefits, charity care, and government-sponsored indigent health care are necessary to maintain financial reserves at a level required by a bond covenant, are necessary to prevent the hospital or hospital system from endangering its ability to continue operations, or if the hospital or hospital system, as a result of a natural or other disaster, is required substantially to curtail its operations.~~

[~~In any fiscal year that a hospital or hospital system, through unintended miscalculation, fails to meet any of the standards in this subsection, the hospital or hospital system shall not lose its tax-exempt status without the opportunity to cure the miscalculation in the fiscal year following the fiscal year the failure is discovered by both meeting one of the standards and providing an additional amount of charity care and government-sponsored indigent health care that is equal to the shortfall from the previous fiscal year. A hospital or hospital system may apply this provision only once every five years.~~]

SECTION 2.16. Section 151.3101, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) In this section, "educational organization" includes an entity described by Section 61.003(8) or (15), Education Code.

SECTION 2.17. Section 151.312, Tax Code, is amended to read as follows:

Sec. 151.312. PERIODICALS AND WRITINGS OF RELIGIOUS, PHILANTHROPIC, CHARITABLE, HISTORICAL, SCIENTIFIC, AND SIMILAR ORGANIZATIONS. Periodicals and writings, including those presented on audio tape, videotape, and computer disk, that are published and [~~or~~] distributed by a religious, philanthropic, charitable, historical, scientific, or other similar organization that is not operated for profit, but excluding an educational organization, are exempted from the taxes imposed by this chapter.

SECTION 2.18. Section 151.317, Tax Code, is amended to read as follows:

Sec. 151.317. GAS AND ELECTRICITY. (a) Subject to Subsection (d), gas [~~Gas~~] and electricity are exempted from the taxes imposed by this chapter [~~except~~] when sold for:

(1) residential use;

(2) use in powering equipment exempt under Section 151.318 by a person processing tangible personal property for sale as tangible personal property, other than preparation or storage of food for immediate consumption;

(3) use in lighting, cooling, and heating in the manufacturing area during the actual manufacturing or processing of tangible personal property for sale as tangible personal property, other than preparation or storage of food for immediate consumption;

(4) use directly in exploring for, producing, or transporting, a material extracted from the earth;

(5) use in agriculture, including dairy or poultry operations and pumping for farm or ranch irrigation;

(6) use directly in electrical processes, such as electroplating, electrolysis, and cathodic protection;

(7) use directly in the off-wing processing, overhaul, or repair of a jet turbine engine or its parts for a certificated or licensed carrier of persons or property;

(8) use directly in providing, under contracts with or on behalf of the United States government or foreign governments, defense or national security-related electronics, classified intelligence data processing and handling systems, or defense-related platform modifications or upgrades; or

(9) a direct or indirect use, consumption, or loss of electricity by an electric utility engaged in the purchase of electricity for resale [~~commercial use~~].

(b) The sale, production, distribution, lease, or rental of, and the use, storage, or other consumption in this state of, gas and electricity sold for the uses listed in Subsection (a), [~~except when sold for residential or commercial use,~~] are exempted from the taxes imposed by a municipality [~~city~~] under Chapter 321 except [~~the Local Sales and Use Tax Act, unless sales for residential use are further exempted by the city~~] as provided by Section 321.105 [~~the Local Sales and Use Tax Act~~].

(c) In this section, "residential [~~:~~

[~~(1) "Residential~~] use" means use:

(1) [~~(A)~~] in a family dwelling or in a multifamily apartment or housing complex or building or in a part of a building occupied as a home or residence when the use is by the owner of the dwelling, apartment, complex, or building or part of the building occupied; or

(2) [~~(B)~~] in a dwelling, apartment, house, or building or part of a building occupied as a home or residence when the use is by a tenant who occupies the dwelling, apartment, house, or building or part of a building under a contract for an express initial term for longer than 29 consecutive days.

(d) To qualify for the exemptions in Subsections (a)(2)-(8), the gas or electricity must be sold to the person using the gas or electricity in the

exempt manner. For purposes of this subsection, the use of gas or electricity in an exempt manner by an independent contractor engaged by the purchaser of the gas or electricity to perform one or more of the exempt activities identified in Subsections (a)(2)-(8) is considered use by the purchaser of the gas or electricity.

(e) Natural gas or electricity used during a regular monthly billing period for both exempt and taxable purposes under a single meter is totally exempt or taxable based on the predominant use of the natural gas or electricity measured by that meter. The comptroller may prescribe by rule the procedures by which a purchaser must establish the predominant use of the natural gas or electricity.

[~~(2) "Commercial use" means use by a person engaged in selling, warehousing, or distributing a commodity or a professional or personal service, but does not include:~~

[~~(A) use by a person engaged in:~~

[~~(i) processing tangible personal property for sale as tangible personal property, other than preparation or storage of food for immediate consumption;~~

[~~(ii) exploring for, producing, or transporting, a material extracted from the earth;~~

[~~(iii) agriculture, including dairy or poultry operations and pumping for farm or ranch irrigation;~~

[~~(iv) electrical processes such as electroplating, electrolysis, and cathodic protection;~~

[~~(v) the off-wing processing, overhaul, or repair of a jet turbine engine or its parts for a certificated or licensed carrier of persons or property; or~~

[~~(vi) providing, under contracts with or on behalf of the United States government or foreign governments, defense or national security-related electronics, classified intelligence data processing and handling systems, or defense-related platform modifications or upgrades; or~~

[~~(B) a direct or indirect use, consumption, or loss of electricity by an electric utility engaged in the purchase of electricity for resale.~~]

SECTION 2.19. Section 151.318, Tax Code, is amended by amending Subsections (a), (c), (o), (q), and (s), and adding Subsections (f) and (t) to read as follows:

(a) The following items are exempted from the taxes imposed by this chapter if sold, leased, or rented to, or stored, used, or consumed by a manufacturer:

(1) tangible personal property that will become an ingredient or component part of tangible personal property manufactured, processed, or fabricated for ultimate sale;

(2) tangible personal property directly used or consumed in or during the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if the use or consumption of the property is necessary or essential to the manufacturing, processing, or fabrication operation and directly makes or causes a chemical or physical change to:

(A) the product being manufactured, processed, or fabricated for ultimate sale; or

(B) any intermediate or preliminary product that will become an ingredient or component part of the product being manufactured, processed, or fabricated for ultimate sale;

(3) services performed directly on the product being manufactured prior to its distribution for sale and for the purpose of making the product more marketable;

(4) actuators, steam production equipment and its fuel, in-process flow through tanks, cooling towers, generators, heat exchangers, transformers and the switches, breakers, capacitor banks, regulators, relays, reclosers, fuses, interruptors, reactors, arrestors, resistors, insulators, instrument transformers, and telemetry units that are related to the transformers, electronic control room equipment, computerized control units, pumps, compressors, and hydraulic units, that are used to power, supply, support, or control equipment that qualifies for exemption under Subdivision (2) or (5) or to generate electricity, chilled water, or steam for ultimate sale; transformers located at an electric generating facility that increase the voltage of electricity generated for ultimate sale, the electrical cable that carries the electricity from the electric generating equipment to the step-up transformers, and the switches, breakers, capacitor banks, regulators, relays, reclosers, fuses, interruptors, reactors, arrestors, resistors, insulators, instrument transformers, and telemetry units that are related to the step-up transformers; and transformers that decrease the voltage of electricity generated for ultimate sale and the switches, breakers, capacitor banks, regulators, relays, reclosers, fuses, interruptors, reactors, arrestors, resistors, insulators, instrument transformers, and telemetry units that are related to the step-down transformers; [~~and~~]

(5) tangible personal property [~~machinery, equipment, and replacement parts or accessories~~] used or consumed in the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if the [~~their~~] use or consumption of the property is necessary and essential to a pollution control process;

(6) lubricants, chemicals, chemical compounds, gases, or liquids that are used or consumed during the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if their use or consumption is necessary and essential to prevent the decline, failure, lapse, or deterioration of equipment exempted by this section;

(7) gases used on the premises of a manufacturing plant to prevent contamination of raw material or product, or to prevent a fire, explosion, or other hazardous or environmentally damaging situation at any stage in the manufacturing process or in loading or storage of the product or raw material on premises;

(8) tangible personal property used or consumed during the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if the use or consumption of the property is necessary and essential to a quality control process;

(9) safety apparel or work clothing that is used during the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if:

(A) the manufacturing process would not be possible without the use of the apparel or clothing; and

(B) the apparel or clothing is not resold to the employee;

(10) tangible personal property used or consumed in the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if the use or consumption of the property is necessary and essential to comply with federal, state, or local laws or rules that establish requirements related to public health; and

(11) tangible personal property specifically installed to:

(A) reduce water use and wastewater flow volumes from the manufacturing, processing, fabrication, or repair operation;

(B) reuse and recycle wastewater streams generated within the manufacturing, processing, fabrication, or repair operation; or

(C) treat wastewater from another industrial or municipal source for the purpose of replacing existing freshwater sources in the manufacturing, processing, fabrication, or repair operation.

(c) The exemption does not include:

(1) intraplant transportation equipment, including intraplant transportation equipment used to move a product or raw material in connection with the manufacturing process and specifically including all piping and conveyor systems, provided that the following remain eligible for the exemption:

(A) piping or conveyor systems that are [~~is~~] a component part of a single item of manufacturing equipment or pollution control equipment eligible for the exemption under Subsection (a)(2), (a)(4), or (a)(5);

(B) piping through which the product or an intermediate or preliminary product that will become an ingredient or component part of the product is recycled or circulated in a loop between the single item of manufacturing equipment and the ancillary equipment that supports only that single item of manufacturing equipment if the single item of manufacturing equipment and the ancillary equipment operate together to perform a specific step in the manufacturing process; and

(C) piping through which the product or an intermediate or preliminary product that will become an ingredient or component part of the product is recycled back to another single item of manufacturing equipment and its ancillary equipment in the same manufacturing process [~~remains eligible for the exemption~~];

(2) [~~maintenance or janitorial supplies or equipment or other machinery, equipment, materials, or supplies that are used incidentally in a manufacturing, processing, or fabrication operation;~~

[~~(3)~~] hand tools;

(3) maintenance supplies not otherwise exempted under this section, maintenance equipment, janitorial supplies or equipment, [~~(4)~~] office equipment or supplies, equipment or supplies used in sales or distribution activities, research or development of new products, or transportation activities[~~, or other tangible personal property not used in an actual manufacturing, processing, or fabrication operation~~]; [~~or~~]

(4) [~~(5)~~] machinery and equipment or supplies to the extent not

otherwise exempted under this section used to maintain or store tangible personal property; or

(5) tangible personal property used in the transmission or distribution of electricity, including transformers, cable, switches, breakers, capacitor banks, regulators, relays, reclosers, fuses, interruptors, reactors, arrestors, resistors, insulators, instrument transformers, and telemetry units not otherwise exempted under this section, and lines, conduit, towers, and poles.

(f) For purposes of Subsection (c)(1), piping through which material is transported forward from one single item of manufacturing equipment and its ancillary support equipment to another single item of manufacturing equipment and its ancillary support equipment is not considered a component part of a single item of manufacturing equipment and is not exempt. An integrated group of manufacturing and processing machines and ancillary equipment that operate together to create or produce the product or an intermediate or preliminary product that will become an ingredient or component part of the product is not a single item of manufacturing equipment.

(o) The production of a publication for the dissemination of news of a general character and of a general interest that is printed on newsprint and distributed to the general public free of charge at a daily, weekly, or other short interval is considered "manufacturing" for purposes of [~~Subsections (d)-(m) of~~] this section.

(q) For purposes of Subsection (b), "semiconductor fabrication cleanrooms and equipment" means all tangible personal property, without regard to whether the property is affixed to or incorporated into realty, used in connection with the manufacturing, processing, or fabrication in a cleanroom environment of a semiconductor product, without regard to whether the property is actually contained in the cleanroom environment. The term includes integrated systems, fixtures, and piping, all property necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity, or other environmental conditions or manufacturing tolerances, and production equipment and machinery. The term does not include the building or a permanent, nonremovable component of the building, that houses the cleanroom environment. The term includes moveable cleanroom partitions and cleanroom lighting. "Semiconductor fabrication cleanrooms and equipment" are not "intraplant [~~"interplant~~] transportation equipment" [~~or "used incidentally in a manufacturing, processing, or fabrication operation"~~] as that term is [~~those terms are~~] used in Subsection [~~Subsections~~] (c)(1) [~~and (c)(2)~~].

(s) The following do not apply to the semiconductor fabrication cleanrooms and equipment in Subsection (q):

(1) limitations in Subsection (a)(2) that refer to tangible personal property directly causing chemical and physical changes to the product being manufactured, processed, or fabricated for ultimate sale;

(2) Subsection (c)(1); and

(3) Subsection (c)(4)[~~(5)~~].

(t) In addition to the other items exempted under this section, pre-press machinery, equipment, and supplies, including computers, cameras, film, film

developing chemicals, veloxes, plate-making machinery, plate metal, litho negatives, color separation negatives, proofs of color negatives, production art work, and typesetting or composition proofs, that are necessary and essential to and used in connection with the printing process are exempted from the tax imposed by this chapter if they are purchased by a person engaged in:

(1) printing or imprinting tangible personal property for sale; or

(2) producing a publication for the dissemination of news of a general character and of a general interest that is printed on newsprint and distributed to the general public free of charge at a daily, weekly, or other short interval.

SECTION 2.20. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.3185 to read as follows:

Sec. 151.3185. PROPERTY USED IN THE PRODUCTION OF MOTION PICTURES OR VIDEO OR AUDIO RECORDINGS AND BROADCASTS. (a) The sale, lease, or rental or storage, use, or other consumption of the following items are exempted from the taxes imposed by this chapter:

(1) tangible personal property that will become an ingredient or component part of:

(A) a motion picture or video or audio recording, a copy of which is sold or offered for ultimate sale, licensed, distributed, broadcast, or otherwise exhibited; or

(B) a broadcast by a producer of cable programs or by a radio or television station licensed by the Federal Communications Commission;

(2) tangible personal property that is necessary or essential to and used or consumed in or during:

(A) the production of a motion picture or video or audio recording, a copy of which is sold or offered for ultimate sale, licensed, distributed, broadcast, or otherwise exhibited; or

(B) the production of a broadcast by or for a cable program producer or by or for a radio or television station licensed by the Federal Communications Commission; and

(3) except as provided by Subsection (c), services that are necessary and essential to and used directly in a production described by Subdivision (2)(A) or (B).

(b) The exemption includes:

(1) cameras, film, and film developing chemicals that are necessary and essential to and used or consumed in a production described by Subsection (a)(2)(A) or (B);

(2) lights, props, sets, teleprompters, microphones, digital equipment, special effects equipment and supplies, and other equipment that is necessary and essential to and used or consumed directly in a production described by Subsection (a)(2)(A) or (B); and

(3) audio or video routing switchers located in a studio that are necessary and essential to and used or consumed directly in a production described by Subsection (a)(2)(A) or (B).

(c) The exemption does not include:

(1) office equipment or supplies;

(2) maintenance or janitorial equipment or supplies;

(3) machinery, equipment, or supplies used in sales, transmission, or transportation activities;

(4) machinery, equipment, or supplies used in distribution activities, unless otherwise exempted by this section;

(5) taxable items that are used incidentally in a production described by Subsection (a)(2)(A) or (B); or

(6) the following taxable items, regardless of whether they are used incidentally in a production described by Subsection (a)(2)(A) or (B):

(A) telecommunications equipment and services;

(B) transmission equipment;

(C) security services;

(D) motor vehicle parking services; and

(E) food ready for immediate consumption.

(d) A production described by Subsection (a)(2)(A) or (B) does not include a production for broadcast that is not intended to be broadcast to either the general public or to cable television service subscribers or paying customers.

SECTION 2.21. Section 151.321(a), Tax Code, is amended to read as follows:

(a) A taxable item sold by a qualified student organization and for which the sales price is $5,000 or less, is exempted from the taxes imposed by Subchapter C, except that a taxable item manufactured by or donated to the organization is exempt from the taxes imposed by Subchapter C regardless of sales price unless sold to the donor, if the student organization:

(1) sells the item at a sale that may last for one day only and the primary purpose of which is to raise funds for the organization; and

(2) holds not more than one sale described by Subdivision (1) each month for which an exemption is claimed for an item sold.

SECTION 2.22. Section 151.350(d), Tax Code, is amended to read as follows:

(d) In this section, "restore" means:

(1) launder, [~~or~~] clean, repair, treat, or apply protective chemicals to an item, to the extent the service is a personal service as defined in Section 151.0045; and

(2) repair, restore, or remodel, to the extent the service is:

(A) a real property repair or remodeling service as defined in Section 151.0047; or

(B) defined as a taxable service in Section 151.0101(a)(5) [~~151.0101(5)~~].

SECTION 2.23. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.354 to read as follows:

Sec. 151.354. SERVICES BY EMPLOYEES OF PROPERTY MANAGEMENT COMPANIES. (a) There are exempted from the taxes imposed by this chapter services performed by an employee of a property management company if:

(1) the employee is permanently assigned to one rental property by the property management company;

(2) the property management company is reimbursed on a dollar-for-dollar basis for the services provided; and

(3) the employee remains assigned to that property while employed by successive owners or management companies.

(b) This exemption does not apply to services performed by an employee for properties other than the one to which the employee is permanently assigned.

(c) For purposes of this section, a person is an employee of a property management company if either the property management company or an affiliate of the property management company employs the person.

(d) The property management company must:

(1) be contractually obligated to the property owner to exercise control over the activities of the employee providing the service; and

(2) manage and direct the employee's day-to-day activities.

(e) The property management company or the affiliate must pay tax on the taxable items purchased and provided to employees providing services on managed property.

(f) In this section, "property management company" means a person:

(1) who, for consideration, operates and manages all the activities at a property held by the owner for purposes of rental, including an office building, mall, or other retail or office complex, an apartment complex, a duplex, or a home; and

(2) whose responsibilities include securing tenants, hiring, and supervising employees for operation or upkeep of the property, receiving and applying revenues, and incurring and paying expenses derived from the operation of the property as directed by the owner.

(g) In this section, a corporation, limited liability company, partnership, trust, or estate is an affiliate of the property management company if an 80 percent ownership interest in the property management company or the corporation, limited liability company, partnership, trust, or estate is held by the other, or if a third person has an 80 percent ownership interest either directly or indirectly in both the property management company and the corporation, limited liability company, partnership, trust, or estate.

SECTION 2.24. Section 151.426, Tax Code, is amended by amending Subsection (c) and adding Subsections (e), (f), (g), (h), (i), and (j) to read as follows:

(c) Subject to Subsection (e), a [~~A~~] retailer or any person who extends credit to a purchaser under a retailer's private label credit agreement, or an assignee or affiliate of either, is entitled to credit or reimbursement for taxes paid on the portion of:

(1) an account determined to be worthless and actually charged off for federal income tax purposes; or

(2) the remaining unpaid sales price of a taxable item when the item is repossessed under a conditional sales contract.

(e) A person is entitled to a credit or reimbursement provided by Subsection (c) only if:

(1) the retailer:

(A) has a valid sales or use tax permit; and

(B) remits the tax for which the credit or reimbursement is sought;

(2) all payments on an account are prorated between taxable and nontaxable charges; and

(3) the retailer or person claiming the credit or reimbursement provides detailed records outlining:

(A) the amount the purchaser contracted to pay;

(B) taxable and nontaxable charges;

(C) the tax collected and remitted;

(D) the unpaid portion of the sales price assigned; and

(E) the taxpayer number of the seller who collected and remitted the tax.

(f) A person whose volume and character of uncollectible accounts warrants an alternative method of substantiating the reimbursement or credit may:

(1) maintain records other than the records specified in Subsection (e) if:

(A) the records fairly and equitably apportion taxable and nontaxable elements of a bad debt and compute the amount of sales tax imposed and remitted with respect to the taxable charges remaining unpaid on the debt; and

(B) the comptroller approves the procedures used; or

(2) implement a system to report its future tax responsibilities based on a historical percentage calculated from a sample of transactions if:

(A) the system utilizes records provided by the person claiming the credit or reimbursement; and

(B) the comptroller approves the procedures used.

(g) The comptroller may revoke the authorization to report under Subsection (f)(2) if the comptroller determines that the percentage being used is no longer representative because of:

(1) a change in law, including a change in the interpretation of an existing law or rule; or

(2) a change in the taxpayer's business operations.

(h) A person claiming a credit or reimbursement under this section shall remit tax on any payments received on an account that has been written off and claimed as a bad debt.

(i) A person who is not a retailer may claim a credit or reimbursement authorized by Subsection (c) only for taxes imposed by Section 151.051 or 151.101.

(j) For purposes of this section, "affiliate" means any entity or entities that would be classified as a member of an affiliated group under 26 U.S.C. Section 1504.

SECTION 2.25. Sections 151.429(d) and (g), Tax Code, are amended to read as follows:

(d) To receive a refund under this section, an enterprise project must apply to the comptroller for the refund. The Texas Department of Economic Development [~~department of commerce~~] shall provide the comptroller with the assistance that the comptroller requires in administering this section.

(g) The refund provided by this section is conditioned on the enterprise project maintaining at least the same level of employment of qualified employees as existed at the time it qualified for a refund for a period of three years from that date. The Texas Department of Economic Development [~~Commerce~~] shall annually certify to the comptroller and the Legislative Budget Board whether that level of employment of qualified employees has been maintained. On the Texas Department of Economic Development [~~Commerce~~] certifying that such a level has not been maintained, the comptroller shall assess that portion of the refund attributable to any such decrease in employment, including penalty and interest from the date of the refund.

SECTION 2.26. Section 151.429(e)(1), Tax Code, is amended to read as follows:

(1) "Enterprise project" means a person designated by the Texas Department of Economic Development [~~Commerce~~] as an enterprise project under Chapter 2303, Government Code.

SECTION 2.27. Sections 151.4291(d) and (g), Tax Code, are amended to read as follows:

(d) To receive a refund under this section, a defense readjustment project must apply to the comptroller for the refund. The Texas Department of Economic Development [~~Commerce~~] shall provide the comptroller with the assistance that the comptroller requires in administering this section.

(g) The refund provided by this section is conditioned on the defense readjustment project maintaining at least the same level of employment of qualified employees as existed at the time it qualified for a refund for a period of three years from that date. The Texas Department of Economic Development [~~Commerce~~] shall annually certify to the comptroller and the Legislative Budget Board whether that level of employment of qualified employees has been maintained. On the Texas Department of Economic Development [~~Commerce~~] certifying that such a level has not been maintained, the comptroller shall assess that portion of the refund attributable to any such decrease in employment, including penalty and interest from the date of the refund.

SECTION 2.28. Section 151.4291(e)(1), Tax Code, is amended to read as follows:

(1) "Defense readjustment project" means a person designated by the Texas Department of Economic Development [~~Commerce~~] as a defense readjustment project under Chapter 2310, Government Code.

SECTION 2.29. Section 151.431(a), Tax Code, is amended to read as follows:

(a) A qualified business operating in the enterprise zone's jurisdiction for at least three consecutive years may apply for and be granted a onetime refund of sales and use tax paid by the qualified business after certification of the qualified business as provided by Subsection (b) of this section to a vendor or directly to the state for the purchase of equipment or machinery sold to the business for use in an enterprise zone if the governing body or bodies certify to the Texas Department of Economic Development [~~Commerce~~] that the business is retaining 10 or more jobs held by qualified

employees during the year. For the purposes of this subsection "job" means an existing employment position of a qualified business that has provided employment to a qualified employee of at least 1,820 hours annually.

SECTION 2.30. Section 152.002, Tax Code, is amended by adding Subsection (d) to read as follows:

(d) A person who holds a lessor license under the Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes) or is specifically not required to obtain a lessor license under Section 4.01(a) of that Act may deduct the fair market value of a replaced motor vehicle that has been leased for longer than 180 days and is titled to another person if:

(1) either person:

(A) holds a beneficial ownership interest in the other person of at least 80 percent; or

(B) acquires all of its vehicles exclusively from franchised dealers whose franchisor shares common ownership with the other person; and

(2) the replaced motor vehicle is offered for sale.

SECTION 2.31. Section 152.041, Tax Code, is amended by adding Subsection (e) to read as follows:

(e) If a motor vehicle title applicant has paid the tax to the seller who is required by this chapter to collect the tax and the seller has failed to remit the tax to the county tax assessor-collector, the tax assessor-collector may accept application for title to the motor vehicle without the payment of additional tax by the applicant. Before title to the motor vehicle may be issued under these circumstances, the motor vehicle title applicant must present satisfactory documentation to the tax assessor-collector that the tax was paid. The county tax assessor-collector shall notify the comptroller in writing of the seller's failure to remit the tax. The notice must:

(1) be made before the 31st day after the date the application for title is accepted;

(2) contain the name and address of the seller; and

(3) include any documentation of the payment of the tax provided to the county tax assessor-collector by the motor vehicle title applicant.

SECTION 2.32. Sections 153.117(a), (b), (d), and (h), Tax Code, are amended to read as follows:

(a) A distributor shall keep a record showing the number of gallons of:

(1) all gasoline inventories on hand at the first of each month;

(2) all gasoline refined, compounded, or blended;

(3) all gasoline purchased or received, showing the name of the seller and date of each purchase or receipt;

(4) all gasoline sold, distributed, or used, showing the name of the purchaser and the date of the sale or use; and

(5) all gasoline lost by fire, theft, or [~~other~~] accident.

(b) A dealer shall keep a record showing the number of gallons of:

(1) gasoline inventories on hand at the first of each month;

(2) all gasoline purchased or received, showing the name of the seller and the date of each purchase or receipt;

(3) all gasoline sold or used, showing the date of the sale or use; and

(4) all gasoline lost by fire, theft, or [~~other~~] accident.

(d) An aviation fuel dealer shall keep a record showing the number of gallons of:

(1) all gasoline inventories on hand at the first of each month;

(2) all gasoline purchased or received, showing the name of the seller and date of each purchase or receipt;

(3) all gasoline sold or used in aircraft or aircraft servicing equipment; and

(4) all gasoline lost by fire, theft, or [~~other~~] accident.

(h) A gasoline jobber shall keep a record showing the number of gallons of:

(1) all gasoline inventories on hand at the first of each month;

(2) all gasoline purchased or received, showing the name of the seller and date of each purchase or receipt;

(3) all gasoline sold, distributed, or used, showing the name of the purchaser and the date of the sale or use; and

(4) all gasoline lost by fire, theft, or [~~other~~] accident.

SECTION 2.33. Sections 153.119(a) and (e), Tax Code, are amended to read as follows:

(a) A person who exports, sells to the federal government, to a public school district in this state, or to a commercial transportation company for exclusive use in providing public school transportation services to a school district under Section 34.008, Education Code, without having added the amount of the tax imposed by this chapter to his selling price, loses by fire, theft, or [~~other~~] accident, or uses gasoline for the purpose of operating or propelling a motorboat, tractor used for agricultural purposes, or stationary engine, or for another purpose except in a vehicle operated or intended to be operated on the public highways of this state, and who has paid the tax imposed on gasoline by this chapter either directly or indirectly is, when the person has complied with the invoice and filing provisions of this section and the rules of the comptroller, entitled to reimbursement of the tax paid by him, less a filing fee and any amount allowed distributors[~~, wholesalers or jobbers, dealers, or others~~] under Section 153.105(e) [~~153.105(c)~~] of this code. A public school district that has paid the tax imposed under this chapter on gasoline used by the district or a commercial transportation company that has paid the tax imposed under this chapter on gasoline used by the company exclusively to provide public school transportation services to a school district under Section 34.008, Education Code, is entitled to reimbursement of the amount of the tax paid in the same manner and subject to the same procedures as other exempted users.

(e) A person who exports or loses by fire, theft, or [~~other~~] accident 100 or more gallons of gasoline on which the tax has been paid, or sells gasoline in any quantity to the United States government for the exclusive use of that government on which the tax has been paid, may file a claim for a refund of the net tax paid to the state in the manner provided by this chapter or as the comptroller may direct.

SECTION 2.34. Section 153.121(a), Tax Code, is amended to read as follows:

(a) Except as provided by this section, a claim for a refund must be filed with the comptroller within one year after the first day of the calendar month following the purchase, use, delivery, export, or loss by fire, theft, or [~~other~~] accident of gasoline, whichever period expires latest.

SECTION 2.35. Section 153.206, Tax Code, is amended by adding Subsection (j) to read as follows:

(j) In each subsequent sale of diesel fuel on which the tax has been collected, the amount of the tax shall be added to the selling price so that the tax is paid ultimately by the person using or consuming the diesel fuel for the purpose of propelling a vehicle on the public highways of this state.

SECTION 2.36. Sections 153.219(a), (b), (c), (d), and (i), Tax Code, are amended to read as follows:

(a) A supplier shall keep a record showing the number of gallons of:

(1) all diesel fuel inventories on hand at the first of each month;

(2) all diesel fuel refined, compounded, or blended;

(3) all diesel fuel purchased or received, showing the name of the seller, and the date of each purchase or receipt;

(4) all diesel fuel sold, distributed, or used showing the name of the purchaser and the date of sale, distribution, or use; and

(5) all diesel fuel lost by fire, theft, or [~~other~~] accident.

(b) A dealer shall keep a record showing the number of gallons of:

(1) all diesel fuel inventories on hand at the first of each month;

(2) all diesel fuel purchased or received, showing the name of the seller, the date of each purchase or receipt;

(3) all diesel fuel sold, distributed, or used; and

(4) all diesel fuel lost by fire, theft, or [~~other~~] accident.

(c) A bonded user or other user with nonhighway equipment uses who files a claim for a refund shall keep a record showing the number of gallons of:

(1) inventories of all diesel fuel on hand at the first of each month;

(2) all diesel fuel purchased or received, showing the name of the seller and the date of each purchase;

(3) all diesel fuel deliveries into the fuel supply tanks of motor vehicles;

(4) diesel fuel used for other purposes, showing the purpose for which used; and

(5) all diesel fuel lost by fire, theft, or [~~other~~] accident.

(d) An aviation fuel dealer shall keep a record showing the number of gallons of:

(1) all diesel fuel inventories on hand at the first of each month;

(2) all diesel fuel purchased or received, showing the name of the seller and the date of each purchase or receipt;

(3) all diesel fuel sold, distributed, or used in aircraft or aircraft servicing equipment; and

(4) diesel fuel lost by fire, theft, or [~~other~~] accident.

(i) A diesel fuel jobber shall keep a record showing the number of gallons of:

(1) all diesel fuel inventories on hand at the first of each month;

(2) all diesel fuel purchased or received, showing the name of the seller and date of each purchase or receipt;

(3) all diesel fuel sold, distributed, or used, showing the name of the purchaser and the date of the sale or use; and

(4) all diesel fuel lost by fire, theft, or [~~other~~] accident.

SECTION 2.37. Section 153.222(e), Tax Code, is amended to read as follows:

(e) A person who exports or loses by fire, theft, or [~~other~~] accident 100 or more gallons of diesel fuel on which the tax has been paid, or who sells diesel fuel in any quantity to the United States for its exclusive use on which the tax has been paid, may file a claim for a refund of the net tax paid to the state as the comptroller may direct.

SECTION 2.38. Section 153.224(a), Tax Code, is amended to read as follows:

(a) Except as provided by this section, a claim for a refund must be filed with the comptroller within one year after the first day of the calendar month following the purchase, use, delivery, export, or loss by fire, theft, or [~~other~~] accident of diesel fuel, whichever period expires latest.

SECTION 2.39. Sections 154.114(c) and (g), Tax Code, are amended to read as follows:

(c) The comptroller shall deliver [~~mail~~] the written notice by personal service or by [~~certified~~] mail[~~, return receipt requested,~~] to the permit holder's mailing address as it appears on the comptroller's records. Service by mail is complete when the notice is deposited with [~~received, as evidenced by return receipt from~~] the U.S. Postal Service.

(g) If the comptroller suspends or revokes a permit, the comptroller shall provide written notice of the suspension or revocation, within a reasonable time, to each distributor and wholesaler permit holder in the state. A distributor or wholesaler permit holder violates Section 154.1015(a) by selling or distributing cigarettes to a person whose permit has been suspended or revoked only after the distributor or wholesaler permit holder receives written notice of the suspension or revocation from the comptroller.

SECTION 2.40. Section 154.210(a), Tax Code, is amended to read as follows:

(a) A distributor shall deliver to the comptroller, on or before the last [~~15th~~] day of each month, a report for the preceding month.

SECTION 2.41. Section 154.308(b), Tax Code, is amended to read as follows:

(b) On making a deficiency determination, the comptroller shall notify the person by [~~certified~~] mail or personal service[~~, return receipt requested~~]. Service by mail is complete when the notice is deposited with [~~received, as evidenced by return receipt from~~] the U.S. Postal Service.

SECTION 2.42. Sections 154.309(b) and (d), Tax Code, are amended to read as follows:

(b) A written request for redetermination must be filed at the office of the comptroller not later than the 30th [~~15th working~~] day after the date notice of deficiency is issued [~~received~~]. If a written request for redetermination is not filed as required by this subsection, the determination is final.

(d) The comptroller shall give notice of a redetermination hearing by personal service or by [~~certified~~] mail[~~, return receipt requested~~]. Service by mail is complete when the notice is deposited with [~~received, as evidenced by return receipt from~~] the U.S. Postal Service.

SECTION 2.43. Section 155.059(c), Tax Code, is amended to read as follows:

(c) The comptroller shall deliver [~~mail~~] the written notice by personal service or by [~~certified~~] mail[~~, return receipt requested,~~] to the permit holder's mailing address as it appears in the comptroller's records. Service by mail is complete when the notice is deposited with [~~received, as evidenced by the return receipt from~~] the United States Postal Service.

SECTION 2.44. Section 155.103(b), Tax Code, is amended to read as follows:

(b) A manufacturer who sells tobacco products to a permit holder in this state shall file with the comptroller, on or before the last [~~15th~~] day of each month, a report showing the information listed in Subsection (a) for the previous month.

SECTION 2.45. Section 155.111(a), Tax Code, is amended to read as follows:

(a) A distributor shall file with the comptroller on or before the last [~~30th~~] day of each month, a report for the preceding month.

SECTION 2.46. Section 155.185(b), Tax Code, is amended to read as follows:

(b) On making a deficiency determination, the comptroller shall notify the person by personal service or by [~~certified~~] mail[~~, return receipt requested~~]. Service by mail is complete when the notice is deposited with [~~received, as evidenced by return receipt from~~] the U.S. Postal Service.

SECTION 2.47. Sections 155.186(b) and (d), Tax Code, are amended to read as follows:

(b) A written request for redetermination must be filed at the office of the comptroller not later than the 30th [~~15th working~~] day after the date notice of deficiency is issued [~~received~~]. If a written request for redetermination is not filed as required by this subsection, the determination is final.

(d) The comptroller shall give notice of a redetermination hearing by personal service or by [~~certified~~] mail[~~, return receipt requested~~]. Service by mail is complete when the notice is deposited with [~~received, as evidenced by return receipt from~~] the U.S. Postal Service.

SECTION 2.48. 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, an 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 under any subdivision of Section 61.003, Education Code.

SECTION 2.49. Sections 156.103(a), (b), (c), and (d), Tax Code, are amended to read as follows:

(a) This [~~Subject to this section, this~~] chapter does not impose a tax on:

(1) the United States;

(2) a governmental entity of the United States[~~, this state, or an agency, institution, board, or commission of this state other than an institution of higher education;~~

[~~(2) an officer or employee of a state governmental entity described by Subdivision (1) when traveling on or otherwise engaged in the course of official duties for the governmental entity~~]; or

(3) an officer or employee of a governmental entity of the United States when traveling on or otherwise engaged in the course of official duties for the governmental entity [~~if the governmental entity directly pays to the hotel the price for the room~~].

(b) This state, or an agency, institution, board, or commission of this state other than an institution of higher education [~~A governmental entity otherwise excepted under this section~~] shall pay the tax imposed by this chapter and is entitled to a refund of the amount of tax paid in accordance with Section 156.154.

(c) A state officer or employee of a state governmental entity described by Subsection (b) [~~(a)(2)~~] who is entitled to reimbursement for the cost of lodging and for whom a special provision or exception to the general rate of reimbursement under the General Appropriations Act is not applicable shall pay the tax imposed by [~~under~~] this chapter [~~as if it were imposed by this chapter~~]. The state governmental entity with whom the person is associated is entitled under Section 156.154 to a refund of the tax paid.

(d) A state officer or employee of a state governmental entity described by Subsection (b) [~~(a)(2)~~] for whom a special provision or exception to the general rate of reimbursement under the General Appropriations Act applies and who is provided with photo identification verifying the identity and exempt status of the person is not required to pay the tax and is not entitled to a refund. The photo identification of a state officer or employee described by this section may be modified for the purposes of this section.

SECTION 2.50. Section 171.063, Tax Code, is amended by amending Subsection (a) and adding Subsection (h) to read as follows:

(a) The following corporations are exempt from the franchise tax:

(1) a nonprofit corporation exempted from the federal income tax under Section 501(c)(3), (4), (5), (6), (7), (8), (10), or (19), Internal Revenue Code which in the case of a nonprofit hospital means a hospital providing community benefits that include charity care and government-sponsored indigent health care [~~community benefits~~] as set forth in Subchapter D, Chapter 311, Health and Safety Code; [~~Paragraph (A), (B), (C), (D), (E), (F), or (G):~~

[~~(A) charity care and government-sponsored indigent health care are provided at a level which is reasonable in relation to the community needs, as determined through the community needs assessment, the available resources of the hospital or hospital system, and the tax-exempt benefits received by the hospital or hospital system;~~

[~~(B) charity care and government-sponsored indigent health care are provided in an amount equal to at least four percent of the hospital's or hospital system's net patient revenue;~~

[~~(C) charity care and government-sponsored indigent health care are provided in an amount equal to at least 100 percent of the hospital's or hospital system's tax-exempt benefits, excluding federal income tax;~~

[~~(D) for tax periods beginning before January 1, 1996, charity care and community benefits are provided in a combined amount equal to at least five percent of the hospital's net patient revenue, provided that charity care and government-sponsored indigent health care are provided in an amount equal to at least three percent of net patient revenue;~~

[~~(E) for tax periods beginning after December 31, 1995, charity care and community benefits are provided in a combined amount equal to at least five percent of the hospital's or hospital system's net patient revenue, provided that charity care and government-sponsored indigent health care are provided in an amount equal to at least four percent of net patient revenue;~~

[~~(F) a nonprofit hospital that has been designated as a disproportionate share hospital under the state Medicaid program in the current year or in either of the previous two fiscal years is considered to have provided a reasonable amount of charity care and government-sponsored indigent health care and is considered in compliance with the standards provided by this subsection; or~~

[~~(G) a hospital operated on a nonprofit basis that is located in a county with a population of less than 50,000 and in which the entire county or the population of the entire county has been designated as a health professionals shortage area is considered in compliance with the standards provided by this subsection;~~]

(2) a corporation exempted under Section 501(c)(2) or (25), Internal Revenue Code, if the corporation or corporations for which it holds title to property is either exempt from or not subject to the franchise tax; and

(3) a corporation exempted from federal income tax under Section 501(c)(16), Internal Revenue Code[~~; and~~

[~~(4) a nonprofit corporation exempted from the federal income tax under Section 501(c)(3), Internal Revenue Code, that does not receive any payment for providing health care services to inpatients or outpatients from any source including but not limited to the patient or person legally obligated to support the patient, third-party payors, Medicare, Medicaid, or any other state or local indigent care program. Payment for providing health care services does not include charitable donations, legacies, bequests, or grants or payments for research.~~

[~~For purposes of satisfying Paragraph (E) of Subdivision (1), a hospital or hospital system may not change its existing fiscal year unless the hospital or hospital system changes its ownership or corporate structure as a result of a sale or merger.~~

[~~For purposes of this subsection, a hospital that satisfies Paragraph (A), (F), or (G) of Subdivision (1) shall be excluded in determining a hospital system's compliance with the standards provided by Paragraph (B), (C), (D), or (E) of Subdivision (1).~~

[~~For purposes of this subsection, the terms "charity care," "government-sponsored indigent health care," "health care organization," "hospital system," "net patient revenue," "nonprofit hospital," and "tax-exempt benefits" have the meanings set forth in Sections 311.031 and 311.042, Health and Safety Code. A determination of the amount of community benefits and charity care and government-sponsored indigent health care provided by a hospital or hospital system and the hospital's or hospital system's compliance with the requirements of Section 311.045, Health and Safety Code, shall be based on the most recently completed and audited prior fiscal year of the hospital or hospital system.~~

[~~A requirement that a nonprofit hospital provide charity care and community benefits under this subsection may be satisfied by a donation of money to the Texas Healthy Kids Corporation established by Chapter 109, Health and Safety Code, provided that:~~

[~~(1) the money is donated to be used for a purpose described by Section 109.033(c), Health and Safety Code; and~~

[~~(2) not more than 10 percent of the charity care required under any provision of this subsection may be satisfied by the donation.~~

[~~The providing of charity care and government-sponsored indigent health care in accordance with Paragraph (A) of Subdivision (1) shall be guided by the prudent business judgment of the hospital which will ultimately determine the appropriate level of charity care and government-sponsored indigent health care based on the community needs, the available resources of the hospital, the tax-exempt benefits received by the hospital, and other factors that may be unique to the hospital, such as the hospital's volume of Medicare and Medicaid patients. These criteria shall not be determinative factors, but shall be guidelines contributing to the hospital's decision along with other factors which may be unique to the hospital. The formulas contained in Paragraphs (B), (C), (D), and (E) of Subdivision (1) shall also not be considered determinative of a reasonable amount of charity care and government-sponsored indigent health care.~~

[~~The requirements of this subsection shall not apply to the extent a hospital or hospital system demonstrates that reductions in the amount of community benefits, charity care, and government-sponsored indigent health care are necessary to maintain financial reserves at a level required by a bond covenant, are necessary to prevent the hospital or hospital system from endangering its ability to continue operations, or if the hospital, as a result of a natural or other disaster, is required substantially to curtail its operations.~~

[~~In any fiscal year that a hospital or hospital system, through unintended miscalculation, fails to meet any of the standards in Subdivision (1), the hospital or hospital system shall not lose its tax-exempt status without the opportunity to cure the miscalculation in the fiscal year following the fiscal year the failure is discovered by both meeting one of the standards and providing an additional amount of charity care and government-sponsored indigent health care that is equal to the shortfall from the previous fiscal year. A hospital or hospital system may apply this provision only once every five years~~].

(h) A requirement that a nonprofit hospital provide charity care and

community benefits under Subsection (a)(1) may be satisfied by a donation of money to the Texas Healthy Kids Corporation established by Chapter 109, Health and Safety Code, if:

(1) the money is donated to be used for a purpose described by Section 109.033(c), Health and Safety Code; and

(2) not more than 10 percent of the charity care required under any provision of Section 311.045, Health and Safety Code, may be satisfied by the donation.

SECTION 2.51. Sections 171.063(c) and (d), Tax Code, are amended to read as follows:

(c) A corporation's exemption under Subsection (b) of this section is established by furnishing the comptroller with a copy of the Internal Revenue Service's letter of exemption issued to the corporation. [~~The copy of the letter must be filed with the comptroller within 15 months after the day that is the last day of a calendar month and that is nearest to the date of the corporation's charter or certificate of authority.~~]

(d) If the Internal Revenue Service has not timely issued to a corporation a letter of exemption, evidence establishing the corporation's provisional exemption under this section is sufficient if the corporation timely files with the comptroller [~~within the 15-month period established by Subsection (c) of this section~~] evidence that the corporation has applied in good faith for the federal tax exemption. The evidence must be filed not later than the 15th month after the day that is the last day of a calendar month and that is nearest to the date of the corporation's charter or certificate of authority.

SECTION 2.52. The heading of Subchapter C, Chapter 171, Tax Code, is amended to read as follows:

SUBCHAPTER C. DETERMINATION OF TAXABLE CAPITAL AND TAXABLE EARNED SURPLUS; ALLOCATION AND APPORTIONMENT

SECTION 2.53. The heading of Section 171.1015, Tax Code, is amended to read as follows:

Sec. 171.1015. REDUCTION OF TAXABLE CAPITAL OR TAXABLE EARNED SURPLUS FOR INVESTMENT IN AN ENTERPRISE ZONE.

SECTION 2.54. Section 171.1015(f)(1), Tax Code, is amended to read as follows:

(1) "Enterprise project" means a person designated by the Texas Department of Economic Development [~~Commerce~~] as an enterprise project under Chapter 2303, Government Code.

SECTION 2.55. Section 171.1015(g), Tax Code, is amended to read as follows:

(g) Only qualified businesses that have been certified as eligible for a tax deduction under this section by the Texas Department of Economic Development [~~Commerce~~] to the comptroller and the Legislative Budget Board are entitled to the tax deduction.

SECTION 2.56. The heading of Section 171.1016, Tax Code, is amended to read as follows:

Sec. 171.1016. REDUCTION OF TAXABLE CAPITAL OR TAXABLE EARNED SURPLUS FOR INVESTMENT IN A READJUSTMENT ZONE.

SECTION 2.57. Section 171.1016(f)(1), Tax Code, is amended to read as follows:

(1) "Defense readjustment project" means a person designated by the Texas Department of Economic Development [~~Commerce~~] as a defense readjustment project under Chapter 2310, Government Code.

SECTION 2.58. Section 171.1016(g), Tax Code, is amended to read as follows:

(g) Only qualified businesses that have been certified as eligible for a tax deduction under this section by the Texas Department of Economic Development [~~Commerce~~] to the comptroller and the Legislative Budget Board are entitled to the tax deduction.

SECTION 2.59. The heading of Section 171.107, Tax Code, is amended to read as follows:

Sec. 171.107. DEDUCTION OF COST OF SOLAR ENERGY DEVICE FROM TAXABLE CAPITAL OR TAXABLE EARNED SURPLUS APPORTIONED TO THIS STATE.

SECTION 2.60. Section 171.110, Tax Code, is amended by adding Subsections (i) and (j) to read as follows:

(i) For purposes of this section, any person designated as an officer is presumed to be an officer if that person:

(1) holds an office created by the board of directors or under the corporate charter or bylaws; and

(2) has legal authority to bind the corporation with third parties by executing contracts or other legal documents.

(j) A corporation may rebut the presumption described in Subsection (i) that a person is an officer if it conclusively shows, through the person's job description or other documentation, that the person does not participate or have authority to participate in significant policy making aspects of the corporate operations.

SECTION 2.61. Section 171.501(a), Tax Code, is amended to read as follows:

(a) A corporation that has been certified a qualified business as provided by Chapter 2303, Government Code may apply for and be granted a refund of franchise tax paid with an initial or annual report if the governing body or bodies certify to the Texas Department of Economic Development [~~Commerce~~] that the business has created 10 or more new jobs in its enterprise zone held by qualified employees during the calendar year that contains the end of the accounting period on which the report is based. The Texas Department of Economic Development [~~Commerce~~] shall certify eligibility for any refund to the comptroller.

SECTION 2.62. The heading of Subchapter C, Chapter 183, Tax Code, is amended to read as follows:

SUBCHAPTER C. MIXED BEVERAGE TAX CLEARANCE [~~FUND~~]

SECTION 2.63. The heading of Section 183.051, Tax Code, is amended to read as follows:

Sec. 183.051. MIXED BEVERAGE TAX CLEARANCE [~~FUND~~].

SECTION 2.64. Section 183.051(b), Tax Code, is amended to read as follows:

(b) The comptroller shall issue to each county described in Subsection (a) a warrant drawn on the general revenue [~~mixed beverage tax clearance~~] fund in an [~~the~~] amount appropriated by the legislature that may not be greater than [~~of~~] 10.7143 percent of receipts from permittees within the county during the quarter and shall issue to each incorporated municipality described in Subsection (a) a warrant drawn on that fund in an [~~the~~] amount appropriated by the legislature that may not be greater than [~~of~~] 10.7143 percent of receipts from permittees within the incorporated municipality during the quarter. [~~The remainder of the receipts for the quarter and all interest earned on that fund shall be transferred to the general revenue fund.~~]

SECTION 2.65. Section 191.085(b), Tax Code, is amended to read as follows:

(b) The person shall keep the record open for four [~~two~~] years for inspection by the comptroller or the attorney general.

SECTION 2.66. Section 203.051(a), Tax Code, is amended to read as follows:

(a) A producer shall keep a complete record of all sulphur he produces in this state. A producer may destroy a record required by this section four [~~three~~] years after the last entry in the record.

SECTION 2.67. Section 321.102, Tax Code, is amended by adding Subsections (e), (f), and (g) to read as follows:

(e) If as a result of the imposition or increase in a sales and use tax by a municipality in which there is located all or part of a local governmental entity that has adopted a sales and use tax or as a result of the annexation by a municipality of all or part of the territory in a local governmental entity that has adopted a sales and use tax the overlapping local sales and use taxes in the area will exceed two percent, the entity's sales and use tax is automatically reduced in that area to a rate that when added to the combined rate of local sales and use taxes will equal two percent.

(f) If an entity's rate is reduced in accordance with Subsection (e), the comptroller shall withhold from the municipality's monthly sales and use tax allocation an amount equal to the amount that would have been collected by the entity had the municipality not imposed or increased its sales and use tax or annexed the area in the entity less amounts that the entity collects following the municipality's levy of or increase in its sales and use tax or annexation of the area in the entity. The comptroller shall withhold and pay the amount withheld to the entity under policies or procedures that the comptroller considers reasonable.

(g) A transit authority is not a local governmental entity for the purposes of Subsections (e) and (f).

SECTION 2.68. Section 322.302, Tax Code, is amended to read as follows:

Sec. 322.302. DISTRIBUTION OF TRUST FUNDS. At [~~(a) Except as provided by Subsection (b) of this section, at~~] least quarterly [~~twice~~] during each state fiscal year and as often as feasible, the comptroller shall send to the person at each taxing entity who performs the function of entity treasurer, payable to the taxing entity, the entity's share of the taxes collected by the comptroller under this chapter.

[~~(b) The comptroller shall make payments required by Subsection (a) of this section to entities created under Chapter 451 or 452, Transportation Code, quarterly each fiscal year as soon as practicable after the end of each quarter.~~]

SECTION 2.69. Section 323.102(c), Tax Code, is amended to read as follows:

(c) A tax imposed under Section 323.105 of this code or Chapter 326, Local Government Code, takes effect on the first day of the first calendar quarter after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the action as required by Section 323.405(b).

SECTION 2.70. Section 323.105(e), Tax Code, is amended to read as follows:

(e) The comptroller shall remit to the county amounts collected at the rate imposed under this section as part of the regular allocation of county tax revenue collected by the comptroller if the district is composed of the entire county. The comptroller [~~county~~] shall, if the district is composed of an area less than the entire county, remit that amount to the district. Retailers may not be required to use the allocation and reporting procedures in the collection of taxes under this section different from the procedures that retailers use in the collection of other sales and use taxes under this chapter. An item, transaction, or service that is taxable in a county under a sales or use tax authorized by another section of this chapter is taxable under this section. An item, transaction, or service that is not taxable in a county under a sales or use tax authorized by another section of this chapter is not taxable under this section.

SECTION 2.71. Section 351.001, Tax Code, is amended by adding Subdivision (10) to read as follows:

(10) "Revenue" includes any interest derived from the revenue.

SECTION 2.72. Section 351.006, Tax Code, is amended to read as follows:

Sec. 351.006. EXEMPTION. (a) A United States governmental entity described in Section 156.103(a) is exempt from the payment of tax authorized by this chapter [~~excepted from the tax imposed by Chapter 156 under Section 156.103(a)(1) or (a)(3) shall pay the tax imposed by this chapter but is entitled to a refund of the tax paid~~].

(b) A state governmental entity described in Section 156.103(b) shall pay the tax imposed by this chapter but is entitled to a refund of the tax paid.

(c) A person who is described by Section 156.103(d) is exempt from the payment of the tax authorized by this chapter.

(d) [~~(c)~~] A person who is described by Section 156.103(c) shall pay the tax imposed by this chapter but the state governmental entity with whom the person is associated is entitled to a refund of the tax paid.

(e) [~~(d)~~] To receive a refund of tax paid under this chapter, the governmental entity entitled to the refund must file a refund claim on a form provided by the municipality and containing the information required by the municipality. The comptroller by rule shall prescribe the form that must be used and the information that must be provided.

(f) [~~(e)~~] A governmental entity may file a refund claim with the

municipality under this chapter only for each calendar quarter for all reimbursements accrued during that quarter. The municipality may adopt an ordinance to enforce this section.

SECTION 2.73. Subchapter B, Chapter 351, Tax Code, is amended by adding Section 351.107 to read as follows:

Sec. 351.107. RECORDS. A municipality shall maintain a record that accurately identifies the receipt and expenditure of all revenue derived from the tax imposed under this chapter.

SECTION 2.74. Section 352.007, Tax Code, is amended to read as follows:

Sec. 352.007. EXEMPTION. (a) A United States governmental entity described in Section 156.103(a) is exempt from the payment of tax authorized by this chapter [~~excepted from the tax imposed by Chapter 156 under Section 156.103(a)(1) or (a)(3) shall pay the tax imposed by this chapter but is entitled to a refund of the tax paid~~].

(b) A state governmental entity subject to the tax imposed by Chapter 156 under Section 156.103(b) shall pay the tax imposed by this chapter but is entitled to a refund of the tax paid.

(c) A person who is described by Section 156.103(d) is exempt from the payment of the tax authorized by this chapter.

(d) [~~(c)~~] A person who is described by Section 156.103(c) shall pay the tax imposed by this chapter but the state governmental entity with whom the person is associated is entitled to a refund of the tax paid.

(e) [~~(d)~~] To receive a refund of a tax paid under this chapter, the governmental entity entitled to the refund must file a refund claim on a form provided by the county and containing the information required by the county. The comptroller by rule shall prescribe the form that must be used and the information that must be provided.

(f) [~~(e)~~] A governmental entity may file a refund claim with the county under this chapter only for each calendar quarter for all reimbursements accrued during that quarter. The county may adopt a resolution to enforce this section.

SECTION 2.75. Section 4B(e), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), as amended by Section 3, Chapter 1022, and Section 12, Chapter 1031, Acts of the 73rd Legislature, Regular Session, 1993, is reenacted to read as follows:

(e) The rate of a tax adopted under this section must be one-eighth, one-fourth, three-eighths, or one-half of one percent. The ballot proposition at the election held to adopt the tax must specify the rate of the tax to be adopted. A corporation that holds an election to reduce a tax imposed under Section 4A of this Act may in a separate proposition on the same ballot adopt a tax under this section. If an eligible city adopts the tax, a tax is imposed on the receipts from the sale at retail of taxable items within the eligible city at the rate approved at the election. There is also imposed an excise tax on the use, storage, or other consumption within the eligible city of tangible personal property purchased, leased, or rented from a retailer during the period that the tax is effective within the eligible city. The rate of the excise tax is the same as the rate of the sales tax portion of the tax and is applied to the sale price of the tangible personal property.

Explanation: This change is needed to allow the legislature to make certain technical changes to statutes involving taxes or fees administered by the comptroller of public accounts.

(2) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add additional text not included in either the house or senate version of the bill, consisting of a new article of the bill, to read as follows:

ARTICLE 3. APPROPRIATIONS AND PROVISIONS RELATED TO APPROPRIATIONS

SECTION 3.01. (a) In addition to other amounts appropriated by the 76th Legislature, Regular Session, 1999, for the biennium beginning September 1, 1999, and subject to the restrictions provided under Articles II and IX, House Bill No. 1, Acts of the 76th Legislature, Regular Session, 1999 (the General Appropriations Act), specifically including Rider 38, page II-66, House Bill No. 1, the Texas Department of Human Services is appropriated $12 million from the general revenue fund for fiscal year 2000 for reimbursement expenses related to increases in reimbursement rates for nursing homes under the medical assistance program and $12 million from the general revenue fund for fiscal year 2001 for the same purpose. Any unexpended balance of the appropriation made by this section for fiscal year 2000 is reappropriated to the department for fiscal year 2001 for the same purpose.

(b) The Texas Department of Human Services is authorized to transfer the appropriations made by this section to the appropriate agency or the appropriate strategy item.

(c) The appropriations made by this section are contingent on the comptroller's providing of notice to the governor and the Legislative Budget Board that the comptroller has made a finding, based on a revenue estimate made before or after the adjournment sine die of the 76th Legislature, Regular Session, that sufficient revenue is estimated to be available from the general revenue fund to provide for the appropriations made by this section.

SECTION 3.02. (a) In addition to other amounts appropriated by the 76th Legislature, Regular Session, 1999, for the biennium beginning September 1, 1999, and subject to the restrictions provided under Articles II and IX, House Bill No. 1, Acts of the 76th Legislature, Regular Session, 1999 (the General Appropriations Act), the Texas Department of Human Services is appropriated $6.6 million from the general revenue fund for fiscal year 2000 for expenses related to increases in the personal needs allowance provided under Section 32.024, Human Resources Code, for a person who receives medical assistance and is a resident of a convalescent or nursing home or related institution licensed under Chapter 242, Health and Safety Code, a personal care facility, an ICF-MR facility, or another similar long-term care facility and $6.6 million from the general revenue fund for fiscal year 2001 for the same purpose. Any unexpended balance of the appropriation made by this section for fiscal year 2000 is reappropriated to the department for fiscal year 2001 for the same purpose.

(b) The Texas Department of Human Services is authorized to transfer the appropriations made by this section to the appropriate agency or the appropriate strategy item.

(c) The appropriations made by this section are contingent on the comptroller's providing of notice to the governor and the Legislative Budget Board that the comptroller has made a finding, based on a revenue estimate made before or after the adjournment sine die of the 76th Legislature, Regular Session, that sufficient revenue is estimated to be available from the general revenue fund to provide for the appropriations made by this section.

SECTION 3.03. (a) This section applies only to an Act of the 76th Legislature, Regular Session, that contains a provision stating that the Act, or a provision of the Act, takes effect only if a specific appropriation for the implementation of the Act is provided in House Bill No. 1, Acts of the 76th Legislature, Regular Session, 1999 (the General Appropriations Act).

(b) In accordance with the terms of the provision described by Subsection (a) of this section, the following Acts take effect:

(1) House Bill Nos. 424, 713, 714, 820, 1172, 1188, 1341, 1652, 1833, 1939, 2085, 2145, 2202, 2307, 2573, 2641, 2719, 2992, 3174, 3504, 3517, and 3778; and

(2) Senate Bill Nos. 526, 565, 666, 708, 1287, 1423, 1651, and 1690.

(c) In accordance with the terms of the provision described by Subsection (a) of this section, the following Acts do not take effect:

(1) House Bill Nos. 1933 and 2148; and

(2) Senate Bill Nos. 313, 840, and 1650.

(d) The following Acts take effect notwithstanding the provision described by Subsection (a) of this section:

(1) House Bill Nos. 64, 153, 628, 676, 1018, 1140, 1223, 1444, 1860, 2631, 2815, 2896, 2978, 3050, 3079, 3304, and 3757; and

(2) Senate Bill Nos. 229, 913 and 1613.

(e) The Acts identified in this section take effect, or do not take effect, as provided by this section, notwithstanding the provision described by Subsection (a) of this section.

(f) If a provision described by Subsection (a) of this section is contained in a bill that is not listed in Subsection (b), (c), or (d) of this section, the provision is ineffective, and the bill takes effect in accordance with its terms notwithstanding that provision, regardless of the relative dates of enactment.

Explanation: This change is needed to allow the legislature to appropriate additional money to the Texas Department of Human Services and to address the issue of whether certain bills are funded by an appropriation in the General Appropriations Act.

(3) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add additional text not included in either the house or senate version of the bill, relating to the implementation of the new articles added to the bill, to read as follows:

SECTION 4.01. The following are repealed: . . .

(3) Sections 151.318(g) and (p) and 152.062(d), Tax Code.

SECTION 4.07. A tax to which Section 2.69 of this Act applies that is not being collected on the effective date of this Act and that was adopted at an election held before January 1, 1999, takes effect on the first day of the first calendar quarter that begins after the effective date of this Act.

SECTION 4.08. Each change in law made to the following provisions by this Act is a clarification of existing law and does not imply that existing law may be construed as inconsistent with the law as amended by this Act:

(1) Section 102.075, Code of Criminal Procedure;

(2) Section 9, Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code);

(3) Section 11, Texas Public School Employees Group Insurance Act (Article 3.50-4, Insurance Code);

(4) Section 326.029, Local Government Code;

(5) Section 326.092, Local Government Code;

(6) Section 151.317, Tax Code;

(7) Section 151.318, Tax Code;

(8) Section 151.3185, Tax Code;

(9) Section 151.350(d), Tax Code;

(10) Section 152.002, Tax Code;

(11) Section 152.041, Tax Code;

(12) Section 153.117, Tax Code;

(13) Section 153.119, Tax Code;

(14) Section 153.206, Tax Code;

(15) Section 153.219, Tax Code;

(16) Section 171.063, Tax Code;

(17) the heading of Subchapter C, Chapter 171, Tax Code;

(18) the headings of Sections 171.1015, 171.1016, and 171.107, Tax Code;

(19) Section 171.110, Tax Code;

(20) Section 191.085, Tax Code; and

(21) Section 203.051, Tax Code.

SECTION 4.09. The comptroller of public accounts may adopt rules and take other actions before October 1, 1999, as the comptroller deems necessary or advisable to prepare for the taking effect of Article 2 of this Act.

SECTION 4.10. (a) Except as provided by Subsections (b), (c), and (d) of this section, Article 2 of this Act takes effect October 1, 1999.

(b) Section 2.05 of this Act takes effect January 1, 2000, and applies to reporting periods beginning on or after that date.

(c) Sections 2.50 through 2.61 of this Act take effect January 1, 2000, and apply to a report originally due on or after that date.

SECTION 4.12. (a) This Act takes effect immediately except that: . . .

(4) Article 2 of this Act takes effect as provided by Section 4.10 of this Act.

Explanation: This addition is necessary to provide for the orderly implementation of the changes made by adding new articles to the bill.

HR 1340 was adopted without objection.

HB 3211 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative McCall submitted the following conference committee report on **HB 3211**:

Austin, Texas, May 29, 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 3211** 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	McCall
Armbrister	Y. Davis
Ratliff	West
Moncrief	Sadler
Fraser	Heflin
On the part of the Senate	On the part of the House

HB 3211, A bill to be entitled An Act relating to state fiscal matters, including taxes and fees administered by the comptroller; making appropriations.

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

ARTICLE 1. STATE FISCAL MATTERS

SECTION 1.01. Section 57.48, Education Code, is amended to read as follows:

Sec. 57.48. PAYMENTS BY THE COMPTROLLER [~~WARRANTS NOT TO BE ISSUED~~] TO DEFAULTING PERSONS PROHIBITED [~~PARTIES~~]. (a) Except as provided by Subsection (g), the [~~The~~] corporation shall report to the comptroller [~~of public accounts~~] the name of any person who is in default on a loan guaranteed under this chapter. The report must contain the information and be submitted in the manner and with the frequency required by rules of the comptroller.

(b) Except as provided by this section, the [~~The~~] comptroller, as a ministerial duty, [~~of public accounts~~] may not issue a warrant or initiate an electronic funds transfer to a [~~any~~] person who has been reported properly under Subsection (a) [~~by the corporation to be in default on a loan guaranteed under this chapter~~].

(c) The comptroller may not issue a warrant or initiate an electronic funds transfer to the assignee of a person who has been reported properly under Subsection (a) [~~is in default only~~] if the assignment became effective after [~~before~~] the person defaulted.

(d) If this section prohibits the comptroller from issuing a warrant or initiating an electronic funds transfer to a person, the comptroller may not issue a warrant or initiate an electronic funds transfer to:

(1) the person's estate;

(2) the distributees of the person's estate; or

(3) the person's surviving spouse.

(e) This [~~(d) When this~~] section does not prohibit [~~prohibits~~] the comptroller from issuing a warrant or initiating an electronic funds transfer

to a person reported properly under Subsection (a) or to the assignee of the person if the corporation subsequently and properly reports to [~~,~~] the comptroller that:

(1) the person is complying with an installment payment agreement or similar agreement to eliminate the default, unless the corporation subsequently and properly reports to the comptroller that the person no longer is complying with the agreement;

(2) the default is being eliminated by deductions of money from the person's compensation under the garnishment provisions of 20 U.S.C. Section 1095a, unless the corporation subsequently and properly reports to the comptroller that the default is no longer being eliminated by the deductions;

(3) the default has been eliminated; or

(4) the report of default was prohibited by Subsection (g) or was otherwise erroneous [~~is also prohibited from using an electronic funds transfer system to pay the person~~].

(f) [~~(e)~~] This section does not prohibit the comptroller from issuing a warrant or initiating an electronic funds transfer to pay [~~the compensation of~~]:

(1) the compensation of a state officer or employee; or

(2) the remuneration of an individual if the remuneration [~~whose compensation~~] is being paid by a private person through a state agency.

(g) The corporation may not report a person under Subsection (a) unless the corporation first provides the person with an opportunity to exercise any due process or other constitutional or statutory protection that must be accommodated before the corporation may begin a collection action or procedure. The comptroller may not investigate or determine whether the corporation has complied with this prohibition [~~(f)(1) This subsection applies when a payment is made to a person other than through the comptroller's issuance of a warrant or the comptroller's use of an electronic funds transfer system.~~

[~~(2) A state agency may not use funds inside or outside the state treasury to pay a person if the person is in default on a loan guaranteed under this chapter.~~

[~~(3) This subsection does not prohibit a state agency from paying the assignee of a person who is in default on a loan guaranteed under this chapter if the assignment became effective before the person defaulted.~~

[~~(4) This subsection does not prohibit a state agency from paying the compensation of:~~

[~~(A) a state officer or employee; or~~

[~~(B) an individual whose compensation is being paid by a private person through the agency.~~

[~~(5) The comptroller may not reimburse a state agency for a payment that is made in violation of this subsection~~].

(h) This section does not prohibit the comptroller from issuing a warrant or initiating an electronic funds transfer if:

(1) the warrant or transfer would result in a payment being made in whole or in part with money paid to the state by the United States; and

(2) the state agency that administers the money certifies to the comptroller that federal law:

(A) requires the payment to be made; or

(B) conditions the state's receipt of the money on the payment being made.

(i) The comptroller may adopt rules and establish procedures to administer this section.

(j) [~~(g)~~] In this section:

(1) "Compensation" means base salary or [~~includes~~] wages, [~~salaries,~~] longevity pay, hazardous duty pay, benefit replacement pay, or an emolument [~~and emoluments that are~~] provided in lieu of base salary or wages [~~or salaries~~]. [~~The term does not include expense reimbursements.~~]

(2) "State agency" means a board, commission, council, committee, department, office, agency, or other governmental entity in the executive, legislative, or judicial branch of state government. The term includes an institution of higher education as defined by Section 61.003, other than a public junior or community college [~~Education Code~~].

(3) "State officer or employee" means an officer or employee of a state agency.

SECTION 1.02. Subchapter C, Chapter 57, Education Code, is amended by adding Section 57.482 to read as follows:

Sec. 57.482. PAYMENTS BY A STATE AGENCY TO DEFAULTING PERSONS PROHIBITED. (a) A state agency, as a ministerial duty, may not use funds inside or outside the state treasury to pay a person or the person's assignee if Section 57.48 prohibits the comptroller from issuing a warrant or initiating an electronic funds transfer to the person or assignee.

(b) A state agency that is prohibited by Subsection (a) from making a payment to a person also is prohibited from paying any part of that payment to:

(1) the person's estate;

(2) the distributees of the person's estate; or

(3) the person's surviving spouse.

(c) The comptroller may not reimburse a state agency for a payment that the comptroller determines was made in violation of this section.

(d) This section applies to a payment only if the comptroller is not responsible under Section 404.046, 404.069, or 2103.003, Government Code, for issuing a warrant or initiating an electronic funds transfer to make the payment.

(e) In this section, "state agency" has the meaning assigned by Section 57.48.

SECTION 1.03. Section 62.021(a), Education Code, is amended to read as follows:

(a) Each fiscal year, an eligible institution is entitled to receive an amount allocated in accordance with this section from funds appropriated by Section 17(a), Article VII, Texas [~~Section 17(a), of the~~] Constitution [~~of Texas~~]. The comptroller [~~of public accounts~~] shall distribute funds allocated under this subsection only on presentation of a claim and issuance of a warrant in accordance with Section 403.071, Government Code. The comptroller may not issue a warrant from any funds allocated under this subsection before the delivery of goods or services described in Section 17,

Article VII, Texas Constitution, except for the payment of principal or interest on bonds or notes or for a payment for a book or other published library material as authorized by Section 2155.386, Government Code. The allocation of funds under this subsection is made in accordance with an equitable formula consisting of the following elements: space deficit, facilities condition, institutional complexity, separate allocations for medical units and the Texas State Technical College System, and an additional allocation for Texas Southern University for compliance with the Texas Desegregation Plan. The amounts allocated by the formula are as follows:

$ 5,256,817 [~~$ 5,572,558~~]	Texas A&M University—Commerce, [~~East Texas State University~~] including an allocation of $1,027,070 to Texas A&M University—Texarkana [~~East Texas State University at Texarkana~~];
$ 8,818,023 [~~$ 9,468,548~~]	Lamar University, including an allocation of $743,967 to Lamar University at Orange and an allocation of $2,336,605 to Lamar University at Port Arthur;
$ 3,007,669 [~~$ 2,862,203~~]	Midwestern State University;
$18,021,033 [~~$20,217,740~~]	University of North Texas;
$ 7,131,692 [~~$10,174,500~~]	The University of Texas—Pan American, including an allocation of $1,050,580 to [~~and~~] The University of Texas at Brownsville;
$ 6,633,109 [~~$ 6,468,273~~]	Stephen F. Austin State University;
$ 3,640,000	University of North Texas Health Science Center at Fort Worth;
$26,132,524 [~~$23,181,556~~]	Texas State University System Administration and the following component institutions, including an allocation of $3,887,211 to [~~:~~] Angelo State University; an allocation of $5,864,608 to Sam Houston State University; an allocation of $14,479,112 to Southwest Texas State University; an allocation of $1,635,271 to Sul Ross State University; and an allocation of $266,322 to Sul Ross State University-Rio Grande College [~~including Uvalde Center~~];
$ 7,191,493 [~~$ 8,199,288~~]	Texas Southern University (includes allocation of $1,000,000 for compliance with Texas Desegregation Plan);
$20,961,881 [~~$16,887,085~~]	Texas Tech University;
$ 7,735,000	Texas Tech University Health Sciences Center;
$ 6,974,897 [~~$ 6,849,160~~]	Texas Woman's University;
$36,952,989 [~~$37,726,969~~]	University of Houston System Administration and the following component institutions, including an allocation of $25,986,116 to the[~~:~~] University of Houston; an allocation of $1,659,449 to the University of Houston—Victoria; an allocation of $3,853,447 to the

	University of Houston—Clear Lake; and an allocation of $5,453,977 to the University of Houston—Downtown;
$12,692,873 [~~$12,167,120~~]	The following components of The Texas A&M University System, including an allocation of $3,687,722 to Texas A&M University—Corpus Christi; an allocation of $1,778,155 to Texas A&M International University; an allocation of $3,555,651 to Texas A&M University—Kingsville; and an allocation of $3,671,345 to West Texas A&M University; and
$ 3,850,000	Texas State Technical College System Administration and the following component campuses, but not its extension centers or programs: Texas State Technical College-Amarillo; Texas State Technical College-Harlingen; Texas State Technical College-Sweetwater; Texas State Technical College—Waco.

SECTION 1.04. Section 66.02, Education Code, is amended to read as follows:

Sec. 66.02. AVAILABLE UNIVERSITY FUND. Distributions [~~The dividends, interest, and other income~~] from the permanent university fund[~~, including the net income attributable to the surface of permanent university fund land, but excluding administrative expenses,~~] shall constitute the available university fund. All distributions from [~~interest, dividends, and other income accruing and earned from the investments of~~] the permanent university fund shall be deposited in the State Treasury to the credit of the available university fund [~~at least once a month~~] by the board of regents of The University of Texas System or by the custodian or custodians of the permanent university fund's securities. The University of Texas System shall provide the information necessary for the comptroller to accurately account for distributions [~~income~~] from the permanent university fund and to protect state revenues. The system shall provide the information using the method, format, and frequency required by the comptroller.

SECTION 1.05. Section 62.022, Education Code, is amended to read as follows:

Sec. 62.022. [~~ADJUSTMENT OF~~] ALLOCATION FORMULA. (a) Prior to the convening of the regular session of the Texas Legislature immediately preceding each 10-year period for which Section 17(d), Article VII, Texas Constitution, prescribes an allocation of the money appropriated by Section 17(a), Article VII, Texas Constitution, the coordinating board shall conduct, with the full participation of the eligible institutions, a study and present recommendations to the Legislative Budget Board and the standing committees of the house of representatives and the senate having jurisdiction over legislation related to higher education as to the allocation of the money appropriated by Section 17(a) for the following 10-year allocation period established by Section 17(d).

(b) Prior to the convening of the regular session of the Texas Legislature immediately preceding the sixth year of each 10-year allocation period established by Section 17(d), Article VII, Texas Constitution [~~in 1999~~], the coordinating board shall conduct, with the full participation of the eligible institutions, a study and present recommendations to the Legislative Budget Board and the [~~to the Texas House and Texas Senate~~] standing committees of the house of representatives and the senate having cognizance over legislation related to higher education as to whether and, if so, how, the equitable allocation formula established for that 10-year period should be adjusted for the last five years of the 10-year period [~~five-year period beginning September 1, 2000~~]. The coordinating board shall include in the study a survey of educational and general building quality, if the legislature provides funds for the survey.

(c) [~~(b)~~] The legislature shall approve, modify and approve, or reject the recommendations of the coordinating board under Subsection (a) or (b).

(d) [~~(c)~~] If, prior to the first day of the sixth year of a 10-year allocation period established by Section 17(d), Article VII, Texas Constitution [~~September 1, 2000~~], the Texas Legislature fails to act on a recommendation for adjustment in the equitable allocation formula, the 10-year allocation provided for in Section 62.021(a) shall continue until the end of the 10-year period.

(e) [~~(d)~~] No adjustment shall be made in the allocation formula that will prevent payment of both the principal and interest on outstanding bonds and notes sold pursuant to Section 17(e), Article VII, Texas Constitution.

[~~(e) Prior to the convening of the regular session of the Texas Legislature in 2005, the coordinating board shall conduct, with the full participation of the eligible institutions, a study and present recommendations to the Legislative Budget Board and to the Texas House and Texas Senate standing committees having cognizance over legislation related to higher education as to the allocation of the funds appropriated by Section 17(a), Article VII, Texas Constitution, for the 10-year period beginning September 1, 2005.~~]

(f) A review of the allocation formula conducted by the coordinating board under this section shall include:

(1) a comparison of the deferred maintenance needs of an institution of higher education and the extent to which the constitutionally dedicated funds were used to meet those needs; and

(2) an evaluation of the effectiveness of the allocation formula concerning deferred maintenance needs of those institutions.

SECTION 1.06. Subchapter A, Chapter 66, Education Code, is amended by adding Section 66.09 to read as follows:

Sec. 66.09. COST VALUE OF INVESTMENTS AND OTHER ASSETS OF THE PERMANENT UNIVERSITY FUND. If substantially all of the assets of the permanent university fund are invested in an internal investment fund established by the board of regents of The University of Texas System, the cost value of the permanent university fund's investment in the commingled fund for the purpose of Sections 18(a) and (b), Article VII, Texas Constitution, shall be calculated by multiplying the permanent university fund's ownership percentage in the commingled fund by the commingled fund's net asset value

at cost as determined by the board of regents. The permanent university fund's ownership percentage of the commingled fund shall be determined by dividing the permanent university fund's units of participation or shares by the total units or shares of the commingled fund.

SECTION 1.07. Section 231.007, Family Code, is amended to read as follows:

Sec. 231.007. DEBTS TO STATE. (a) A person obligated to pay child support in a case in which the Title IV-D agency is providing services under this chapter who does not pay the required [~~child~~] support is indebted [~~in debt~~] to the state for the purposes of Section 403.055, Government Code, if the Title IV-D agency has reported the person to the comptroller under that section properly.

(b) The amount of a person's indebtedness [~~debt of a person in debt~~] to the state under [~~as provided by~~] Subsection (a) is equal to the sum of:

(1) the amount of the required child support that has [~~is past due and~~] not been paid; and

(2) any interest, fees, court costs, or other amounts owed by the person because the person has not paid [~~as a result of the person's failure to pay~~] the [~~child~~] support.

(c) The Title IV-D agency is the sole [~~an~~] assignee of all payments, including payments of compensation, by the state to a person indebted [~~in debt~~] to the state under Subsection (a) [~~as provided by this section. The assignment takes effect before the date the person's debt to the state arose~~].

(d) On request of the Title IV-D agency:

(1) the comptroller shall make payable and deliver to the agency any payments for which the agency is the assignee under Subsection (c), if the comptroller is responsible for issuing warrants or initiating electronic funds transfers to make those payments; and

(2) a state agency shall make payable and deliver to the Title IV-D agency any payments for which the Title IV-D agency is the assignee under Subsection (c) if the comptroller is not responsible for issuing warrants or initiating electronic funds transfers to make those payments.

(e) [~~(d)~~] A person indebted [~~in debt~~] to the state under Subsection (a) [~~as provided by this section~~] may eliminate the [~~person's~~] debt by:

(1) paying the entire amount of the debt; or

(2) resolving the debt in a manner acceptable to the Title IV-D agency.

(f) [~~(e)~~] The comptroller or a state agency may rely on a representation by the Title IV-D agency that:

(1) a person is indebted [~~in debt~~] to the state under Subsection (a) [~~as provided by this section~~]; or

(2) a person who was indebted [~~in debt~~] to the state under Subsection (a) has eliminated the [~~person's~~] debt [~~as provided by this section~~].

(g) Except as provided by Subsection (h) [~~(f) In this section~~], the payment of workers' compensation benefits to a person indebted [~~in debt~~] to the state under Subsection (a) is the same for the purposes of this section as any other payment made to the person by the state. Notwithstanding Section 408.203, Labor Code, an order or writ to withhold income from workers'

compensation benefits is not required before the benefits are withheld or assigned under this section.

(h) [~~(g)~~] The amount of weekly workers' compensation benefits that may be withheld or assigned under this section may not exceed the percentage of the person's benefits that would apply if the benefits equalled the person's monthly net resources as provided by Chapter 154, except that in no event may more than 50 percent of the person's weekly compensation benefits be withheld or assigned. The comptroller or a state agency may rely on a representation by the Title IV-D agency that a withholding or assignment under this section would not violate this subsection.

(i) [~~(h)~~] Notwithstanding Section 403.055 [~~Sections 403.055(c) and (e)(4)~~], Government Code, the comptroller may not issue a warrant or initiate an electronic funds transfer to pay:

(1) the compensation of a state officer or employee who is indebted [~~in debt~~] to the state under Subsection (a); or

(2) the remuneration of an individual who is being paid by a private person through a state agency, if the individual is indebted to the state under Subsection (a) [~~as provided by this section~~].

(j) Notwithstanding Section 2107.008, Government Code, a state agency may not pay:

(1) compensation to a state officer or employee who is indebted to the state under Subsection (a); or

(2) remuneration to an individual who is being paid by a private person through the agency if the individual is indebted to the state under Subsection (a).

(k) [~~(i)~~] In this section, "compensation," "state agency," and "state officer or employee" have [~~"compensation" has~~] the meanings [~~meaning~~] assigned by Section 403.055[~~(f)(1)~~], Government Code[~~, and includes the payment of workers' compensation benefits~~].

SECTION 1.08. Section 26.006, Government Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) A county judge is entitled to an annual salary supplement from the state of $10,000 [~~$5,000~~] if at least 40 percent of the functions that the judge performs are judicial functions.

(c) The commissioners court in a county with a county judge who is entitled to receive a salary supplement under this section may not reduce the county funds provided for the salary or office of the county judge as a result of the salary supplement required by this section.

SECTION 1.09. Subchapter A, Chapter 26, Government Code, is amended by adding Sections 26.007 and 26.008 to read as follows:

Sec. 26.007. STATE CONTRIBUTION. (a) Beginning on the first day of the state fiscal year, the state shall annually compensate each county that collects the additional fees and costs under Section 51.703 in an amount equal to $5,000 if the county judge is entitled to an annual salary supplement from the state under Section 26.006.

(b) The amount shall be paid to the county's salary fund in equal monthly installments from funds appropriated from the judicial fund.

Sec. 26.008. EXCESS CONTRIBUTIONS. (a) At the end of each state

fiscal year the comptroller shall determine the amounts deposited in the judicial fund under Section 51.703 and the amounts paid to the counties under Section 26.007. If the total amount paid under Section 51.703 by all counties that collect fees and costs under that section exceeds the total amount paid to the counties under Section 26.007, the state shall remit the excess to the counties that collect fees and costs under Section 51.703 proportionately based on the percentage of the total paid by each county.

(b) The amounts remitted under Subsection (a) shall be paid to the county's general fund to be used only for court-related purposes for the support of the judiciary as provided by Section 21.006.

SECTION 1.10. The heading to Section 51.702, Government Code, is amended to read as follows:

Sec. 51.702. ADDITIONAL FEES AND COSTS IN CERTAIN STATUTORY COUNTY COURTS.

SECTION 1.11. Subchapter H, Chapter 51, Government Code, is amended by adding Section 51.703 to read as follows:

Sec. 51.703. ADDITIONAL FEES AND COSTS IN CERTAIN COUNTY COURTS. (a) In addition to all other fees authorized or required by other law, the clerk of a county court with a judge who is entitled to an annual salary supplement from the state under Section 26.006 shall collect a $40 filing fee in each civil case filed in the court to be used for court-related purposes for the support of the judiciary.

(b) In addition to other court costs, a person shall pay $15 as a court cost on conviction of any criminal offense in a county court, including cases in which probation or deferred adjudication is granted. A conviction that arises under Chapter 521, Transportation Code, or a conviction under Subtitle C, Title 7, Transportation Code, is included, except that a conviction arising under any law that regulates pedestrians or the parking of motor vehicles is not included.

(c) Court costs and fees due under this section shall be collected in the same manner as other fees, fines, or costs are collected in the case.

(d) The clerk shall send the fees and costs collected under this section to the comptroller at least as frequently as monthly. The comptroller shall deposit the fees in the judicial fund.

(e) Section 51.320 applies to a fee or cost collected under this section.

SECTION 1.12. Section 403.011, Government Code, is amended to read as follows:

Sec. 403.011. GENERAL POWERS. (a) The comptroller shall:

(1) obtain a seal with "Comptroller's Office, State of Texas" engraved around the margin and a five-pointed star in the center, to be used as the seal of the office to authenticate official acts, except warrants drawn on the state treasury;

(2) adopt regulations the comptroller considers essential to the speedy and proper assessment and collection of state revenues;

(3) supervise, as the sole accounting officer of the state, the state's fiscal concerns and manage those concerns as required by law;

(4) require all accounts presented to the comptroller for settlement not otherwise provided for by law to be made on forms that the comptroller prescribes;

(5) prescribe and furnish the form or electronic format to be used in the collection of public revenue;

(6) prescribe the mode and manner of keeping and stating of accounts of persons collecting state revenue;

(7) prescribe forms or electronic formats of the same class, kind, and purpose so that they are uniform in size, arrangement, matter, and form;

(8) require each person receiving money or managing or having disposition of state property of which an account is kept in the comptroller's office periodically to render statements of the money or property to the comptroller;

(9) require each person who has received and not accounted for state money to settle the person's account;

(10) keep and settle all accounts in which the state is interested;

(11) examine and settle the account of each person indebted to the state, verify the amount or balance, and direct and supervise the collection of the money;

(12) audit claims against the state the payment of which is provided for by law, unless the audit is otherwise specially provided for;

(13) determine the method for auditing claims against the state in a cost-effective manner, including [~~but not limited to~~] the use of stratified and statistical sampling techniques in conjunction with automated edits;

(14) maintain the necessary records and data for each approved claim against the state so that an adequate audit can be performed and the comptroller can submit a report to each house of the legislature, upon request, stating the name and amount of each approved claim;

(15) keep and state each account between the state and the United States;

(16) keep journals through which all entries are made in the ledger;

(17) draw warrants on the treasury for payment of all money required by law to be paid from the treasury on warrants drawn by the comptroller;

(18) suggest plans for the improvement and management of the general revenue; and

(19) preserve the books, records, papers, and other property of the comptroller's office and deliver them in good condition to the successor to that office.

(b) The comptroller may solicit, accept, or refuse a gift or grant of money, services, or property on behalf of the state for any public purpose related to the office or duties of the comptroller.

SECTION 1.13. Section 403.023, Government Code, is amended to read as follows:

Sec. 403.023. CREDIT, CHARGE, AND DEBIT CARDS. (a) The comptroller may adopt rules relating to the acceptance of credit, charge, and debit cards for the payment of fees, taxes, and other charges assessed by state agencies. The rules may:

(1) authorize a state agency to accept credit, charge, or debit cards for a payment if the comptroller determines the best interests of the state would be promoted;

(2) authorize or require a person that uses a credit, charge, or debit

card [~~user~~] to pay a processing fee to the state agency that accepts the [~~credit~~] card for a payment; and

(3) authorize a particular state agency to accept credit, charge, or debit cards for a payment without providing the same authorization to other state agencies.

(b) The comptroller may adopt rules relating to the use of credit or charge cards by state agencies to pay for purchases. The rules may:

(1) authorize a state agency to use credit or charge cards if the comptroller determines the best interests of the state would be promoted;

(2) authorize a state agency to use credit or charge cards to pay for purchases without providing the same authorization to other state agencies;

(3) authorize a state agency to use credit or charge cards to pay for purchases that otherwise may be paid out of the agency's petty cash accounts under Subchapter K; and

(4) authorize the General Services Commission to contract with one or more credit or charge card issuers on behalf of state agencies.

(c) The comptroller may not adopt rules about a particular state agency's acceptance of credit or charge cards for a payment if the rules [~~that~~] would affect a contract that the [~~state~~] agency has entered into that is in effect on September 1, 1993. The comptroller may not adopt rules about a particular state agency's acceptance of charge or debit cards for a payment if the rules would affect a contract that the agency has entered into that is in effect on September 1, 1999.

(d) The comptroller may not adopt rules about a particular state agency's acceptance or use of credit, charge, or debit cards if another law specifically authorizes, requires, prohibits, or otherwise regulates the acceptance or use.

(e) In this section, "state agency" means:

(1) a board, commission, department, or other agency in the executive branch of state government that is created by the constitution or a statute of this state, including an institution of higher education as defined by Section 61.003, Education Code, other than a public junior college;

(2) the legislature or a legislative agency; or

(3) the supreme court, the court of criminal appeals, a court of appeals, or a state judicial agency.

SECTION 1.14. Subchapter B, Chapter 403, Government Code, is amended by adding Section 403.0271 to read as follows:

Sec. 403.0271. AUTHORIZATIONS TO DEBIT STATE ACCOUNTS. (a) The comptroller may authorize a person to debit a state account in or outside of the state treasury for the purpose of receiving payment for goods or services provided to a state agency.

(b) The comptroller may:

(1) authorize certain persons to debit an account without authorizing others to do so;

(2) authorize a debit for goods or services provided to certain state agencies without authorizing a debit for goods or services provided to other state agencies;

(3) authorize a debit for certain types of goods or services without authorizing a debit for other types of goods or services; and

(4) otherwise limit the circumstances under which a debit is permitted.

(c) Each state agency whose funds are paid through debits authorized under Subsection (a) shall:

(1) reconcile the debits with the actual amount due for goods or services provided; and

(2) recover any amount debited that exceeds the amount due.

(d) The comptroller by rule shall specify the frequency with which a reconciliation under Subsection (c)(1) must be conducted by a state agency. The comptroller by rule may require the agency to submit the reconciliation to the comptroller for review and approval. The comptroller may audit the agency to ensure the accuracy of the reconciliation.

(e) The comptroller may adopt rules and establish procedures to administer this section.

(f) In this section, "state agency" means:

(1) a board, commission, department, or other agency in the executive branch of state government that is created by the constitution or a statute of this state, including an institution of higher education as defined by Section 61.003, Education Code, other than a public junior or community college;

(2) the legislature or a legislative agency; or

(3) the supreme court, the court of criminal appeals, a court of appeals, or a state judicial agency.

SECTION 1.15. Section 403.055, Government Code, is amended to read as follows:

Sec. 403.055. PAYMENTS [~~ISSUANCE~~] TO DEBTORS OR DELINQUENTS PROHIBITED. (a) Except as provided by this section, the [~~The~~] comptroller, as a ministerial duty, may not issue a warrant or initiate an electronic funds transfer to a person who has been reported properly under Subsection (f) [~~if the person is indebted or owes delinquent taxes to the state, or owes delinquent taxes under a tax that the comptroller administers or collects, until the debt or taxes are paid~~].

(b) The comptroller may not issue a warrant or initiate an electronic funds transfer to the assignee of a person who has been reported properly under Subsection (f) [~~is indebted or owes delinquent taxes to the state only~~] if the assignment became effective after [~~before~~] the person became indebted to the state or incurred a tax delinquency [~~delinquent in the payment of taxes to the state~~].

(c) When this section prohibits the comptroller from issuing a warrant or initiating an electronic funds transfer to a person, the comptroller may not issue a warrant or initiate an electronic funds transfer to:

(1) the person's estate;

(2) the distributees of the person's estate; or

(3) the person's surviving spouse.

(d) [~~(c)~~] This section does not prohibit the comptroller from issuing a warrant or initiating an electronic funds transfer to pay [~~the compensation of~~]:

(1) the compensation of a state officer or employee; or

(2) the remuneration of an individual if the remuneration [~~whose compensation~~] is being paid by a private person through a state agency.

(e) This [~~(d) When this~~] section does not prohibit [~~prohibits~~] the comptroller from issuing a warrant or initiating [~~, the comptroller is also prohibited from using~~] an electronic funds transfer to a person reported properly under Subsection (f) or to the person's assignee if the state agency responsible for collecting the person's debt or tax delinquency subsequently and properly reports to the comptroller that:

(1) the person is complying with an installment payment agreement or similar agreement to pay or eliminate the debt or delinquency, unless the agency subsequently and properly reports to the comptroller that the person no longer is complying with the agreement;

(2) the person's debt or delinquency has been paid or otherwise eliminated; or

(3) the report of indebtedness or delinquency was prohibited by Subsection (g) or was otherwise erroneous [~~system~~].

(f) Except as provided by Subsection (g), a state agency shall report to the comptroller each person who is indebted to the state or has a tax delinquency. The report must contain the information and be submitted in the manner and with the frequency required by the comptroller.

(g) A state agency may not report a person under Subsection (f) unless the agency first provides the person with an opportunity to exercise any due process or other constitutional or statutory protection that must be accommodated before the agency or the state may begin a collection action or procedure. The comptroller may not investigate or determine whether a state agency has complied with this prohibition.

(h) This section does not apply:

(1) to the extent Section 57.48, Education Code, applies; or

(2) to the extent this section conflicts with Section 231.007, Family Code.

(i) This section does not prohibit the comptroller from issuing a warrant or initiating an electronic funds transfer if:

(1) the warrant or transfer would result in a payment being made in whole or in part with money paid to the state by the United States; and

(2) the state agency that administers the money certifies to the comptroller that federal law:

(A) requires the payment to be made; or

(B) conditions the state's receipt of the money on the payment being made.

(j) The comptroller may adopt rules and establish procedures to administer this section.

(k) [~~(e)(1) This subsection applies when a payment is made to a person other than through the comptroller's issuance of a warrant or the comptroller's use of an electronic funds transfer system.~~

[~~(2) A state agency may not use funds inside or outside the state treasury to pay a person if the person is indebted or owes delinquent taxes to the state or owes delinquent taxes under a tax that the comptroller administers or collects until the debt or taxes are paid.~~

[~~(3) This subsection does not prohibit a state agency from paying the assignee of a person who is indebted or owes delinquent taxes to the state if the assignment became effective before the person became indebted to the state or delinquent in the payment of taxes to the state.~~

[~~(4) This subsection does not prohibit a state agency from paying the compensation of:~~

[~~(A) a state officer or employee; or~~

[~~(B) an individual whose compensation is being paid by a private person through the agency.~~

[~~(5) The comptroller may not reimburse a state agency for a payment that is made in violation of this subsection.~~

[~~(f)~~] In this section:

(1) "Compensation" means base salary or [~~includes~~] wages, [~~salaries,~~] longevity pay, hazardous duty pay, benefit replacement pay, or an emolument [~~and emoluments that are~~] provided in lieu of base salary or wages [~~or salaries~~]. [~~The term does not include expense reimbursements.~~]

(2) "State agency" means a board, commission, council, committee, department, office, agency, or other governmental entity in the executive, legislative, or judicial branch of state government. The term includes an institution of higher education as defined by Section 61.003, Education Code, other than a public junior or community college.

(3) "State officer or employee" means an officer or employee of a state agency.

(4) "Tax delinquency" means a delinquency in payment of:

(A) a tax to the state; or

(B) a tax that the comptroller administers or collects.

[~~(g) If a person owes delinquent taxes under a tax that the comptroller administers or collects, the comptroller may subtract the delinquent amount from the total amount due the person from the state, except from amounts due that are deemed to be current wages, and issue a warrant for the difference. The delinquent person is entitled to written notice of at least 20 days before the date of the offset. The notice must conform to the notice requirements under Sections 111.018(b)(1) through (3), Tax Code. The comptroller may promulgate rules for the administration of this section.~~]

SECTION 1.16. Subchapter D, Chapter 403, Government Code, is amended by adding Section 403.0551 to read as follows:

Sec. 403.0551. DEDUCTIONS FOR REPAYMENT OF CERTAIN DEBTS OR TAX DELINQUENCIES. (a) Except as provided by Subsections (b) and (d), the comptroller may deduct the amount of a person's indebtedness to the state or tax delinquency from any amount the state owes the person or the person's successor. The comptroller shall issue a warrant or initiate an electronic funds transfer to the person or successor for any remaining amount.

(b) Subsection (a) applies to a person or the person's successor only if:

(1) the comptroller has provided notice to the person or successor that complies with Subsection (c);

(2) Section 57.48, Education Code, or Section 403.055 prohibits the comptroller from issuing a warrant or initiating an electronic funds transfer to the person or successor; and

(3) the comptroller is responsible under Section 404.046, 404.069, or 2103.003 for paying the amount owed by the state to the person or successor through the issuance of a warrant or initiation of an electronic funds transfer.

(c) The comptroller shall provide notice to a person or the person's successor before deducting the amount of the person's indebtedness to the state or tax delinquency under Subsection (a). The notice must:

(1) be given in a manner reasonably calculated to give actual notice to the person or successor;

(2) state the:

(A) amount of the indebtedness or the amount of the tax, penalties, interest, and costs due, as applicable; and

(B) name of the indebted or delinquent person;

(3) specify the deadline for paying the amount due; and

(4) inform the person or successor that unless the amount due is paid before the deadline, the comptroller will deduct the amount of the indebtedness or delinquency from the amount the state owes the person or successor.

(d) This section does not authorize the comptroller to deduct the amount of a state employee's indebtedness to a state agency from any amount of compensation owed by the agency to the employee, the employee's successor, or the assignee of the employee or successor. In this subsection, "compensation," "indebtedness," "state agency," "state employee," and "successor" have the meanings assigned by Section 666.001.

(e) The comptroller shall credit the appropriate fund or account for any amount deducted under this section if the comptroller is the custodian or trustee of that fund or account. The comptroller shall remit any amount deducted under this section to the custodian or trustee of the appropriate fund or account if the comptroller is not its custodian or trustee.

(f) The comptroller may determine the order that a person's multiple types of indebtedness to the state or tax delinquencies are deducted from the amount the state owes the person or the person's successor.

(g) The assignee of a person or the person's successor is considered to be a successor of the person for the purposes of this section, except that a deduction under this section from the amount owed to the assignee of a person or the person's successor may not be made if the assignment became effective before the person became indebted to the state or incurred the tax delinquency.

(h) The comptroller may adopt rules and establish procedures to administer this section.

(i) Except as provided by Subsection (d), in this section, "successor" means a person's estate and the distributees of that estate.

SECTION 1.17. Subchapter D, Chapter 403, Government Code, is amended by adding Section 403.0552 to read as follows:

Sec. 403.0552. PREPARATION AND RETENTION OF CERTAIN WARRANTS. (a) The comptroller may prepare and retain a warrant that Section 57.48, Education Code, Section 231.007, Family Code, or Section 403.055 prohibits the comptroller from issuing.

(b) The comptroller may prepare a warrant to make a payment that

Section 57.48, Education Code, Section 231.007, Family Code, or Section 403.055 prohibits the comptroller from initiating by electronic funds transfer.

(c) If the comptroller prepares a warrant under Subsection (a) or (b), the comptroller shall:

(1) make the warrant payable to the person to whom the warrant may not be issued or an electronic funds transfer may not be initiated; and

(2) retain the warrant until the earliest of:

(A) the first day the warrant may no longer be paid by the comptroller under Section 404.046 or other applicable law;

(B) the date the comptroller deducts the amount of the person's indebtedness to the state or tax delinquency from the amount of the warrant under Section 403.0551, Chapter 666, or other applicable law; or

(C) the first day the comptroller is no longer prohibited from issuing the warrant or initiating an electronic funds transfer to that person.

(d) The comptroller may not cancel or destroy a warrant prepared under Subsection (a) or (b) unless the comptroller receives a request for the cancellation or destruction from the state agency that submitted the voucher requesting issuance of the warrant or initiation of the electronic funds transfer and:

(1) the agency informs the comptroller that the voucher was erroneous or was submitted erroneously;

(2) the agency is the only state agency responsible for collecting the indebtedness or tax delinquency of the payee of the warrant; or

(3) all state agencies that are responsible for collecting the indebtedness or tax delinquency of the payee of the warrant consent to the cancellation or destruction.

(e) For purposes of Subsection (d)(1), a voucher is not erroneous and is not submitted erroneously merely because the comptroller is prohibited by Section 57.48, Education Code, Section 231.007, Family Code, or Section 403.055 from issuing a warrant or initiating an electronic funds transfer in accordance with the voucher.

SECTION 1.18. Section 403.060(a), Government Code, is amended to read as follows:

(a) The comptroller may delegate to a person [~~state agency~~] the authority to print warrants [~~at the agency's location~~] and deliver those warrants to the appropriate person. However, before a person [~~an agency~~] may print and deliver a warrant, the comptroller must approve a voucher related to the warrant in accordance with Section 403.071.

SECTION 1.19. Section 403.302(b), Government Code, is amended to read as follows:

(b) In conducting the study, the comptroller shall determine the taxable value of property in each school district:

(1) using, if appropriate, samples selected through generally accepted sampling techniques; [~~and~~]

(2) according to generally accepted standard valuation, statistical compilation, and analysis techniques; and

(3) ensuring that different levels of appraisal on sold and unsold property do not adversely affect the accuracy of the study.

SECTION 1.20. Section 404.046, Government Code, is amended to read as follows:

Sec. 404.046. PAYMENT FROM TREASURY. The comptroller shall pay warrants the comptroller draws on the treasury that are authorized by law. Except as provided by Section 403.0271, money [~~Money~~] may not be paid out of the treasury except on a warrant drawn or an electronic funds transfer initiated by [~~the warrants of~~] the comptroller. A [~~, and a~~] warrant may not be paid by the comptroller unless presented for payment to a financial institution or the comptroller before two years after the close of the fiscal year in which the warrant was issued. Claims for the payment of warrants presented after that time may be presented to the legislature for appropriations from which the claims may be paid.

SECTION 1.21. Section 404.069(a), Government Code, is amended to read as follows:

(a) All money and securities deposited with the comptroller in trust for any legal purpose may be received by the comptroller as provided by Section 403.052. The money or securities shall be held in trust by the comptroller in the same manner as the departmental suspense account. Except as provided by Section 403.0271, the money may be withdrawn only on a [~~Withdrawal shall be by~~] warrant drawn or an electronic funds transfer initiated by the comptroller. The securities may be withdrawn only by [~~in the case of money and~~] withdrawal authorization [~~in the case of securities. Those instruments shall be issued by the comptroller as provided by Sections 403.011 and 403.056~~].

SECTION 1.22. Section 608.002(b), Government Code, is amended to read as follows:

(b) An authorization must:

(1) be in writing or recorded by electronic means; and

(2) state:

(A) the period for which the authorization is to be in effect; [~~and~~]

(B) the amount to be deducted; and

(C) the denomination of the savings bonds to be purchased.

SECTION 1.23. Section 608.003(b), Government Code, is amended to read as follows:

(b) If a withholding is made, the department administrator or disbursing officer shall make a deduction when the payroll of a state department or a political subdivision is presented to the comptroller or disbursing officer, as appropriate, [~~for the issuance of warrants~~] for payment.

SECTION 1.24. Section 608.005, Government Code, is amended to read as follows:

Sec. 608.005. PAYMENT [~~ISSUANCE OF WARRANT~~] TO DEPARTMENT ADMINISTRATOR OR DISBURSING OFFICER. (a) When the payroll of a state department is presented to the comptroller for payment, the comptroller shall pay [~~issue~~] to the department administrator [~~a warrant for~~] the full amount deducted from the department's payroll for the payroll period to purchase savings bonds on behalf of department officers and employees.

(b) When the payroll of a political subdivision is presented to the disbursing officer for payment, the disbursing officer shall pay [~~issue~~] to the disbursing officer [~~a warrant for~~] the full amount deducted from the political subdivision's payroll for the payroll period to purchase savings bonds on behalf of officers and employees of the political subdivision.

SECTION 1.25. Section 608.007, Government Code, is amended to read as follows:

Sec. 608.007. TRUST ACCOUNT. (a) A department administrator shall deposit money received [~~a warrant issued~~] under Section 608.005(a) with the comptroller to be held in trust by the comptroller until disbursed by the department administrator to purchase savings bonds for an individual designated in an authorization under Section 608.002 filed with the department administrator.

(b) A disbursing officer shall deposit money received [~~a warrant issued~~] under Section 608.005(b) with the comptroller of the political subdivision to be held in trust by the comptroller until disbursed by the disbursing officer to purchase savings bonds for an individual designated in an authorization under Section 608.002 filed with the disbursing officer.

(c) Money [~~A warrant~~] held in trust under this section shall be deposited in an account designated as the savings bond payroll savings account. [~~The comptroller shall pay out money deposited in the account on proper warrants drawn by the department administrator or disbursing officer, as appropriate.~~]

SECTION 1.26. Section 608.010(b), Government Code, is amended to read as follows:

(b) On termination as provided by Subsection (a), any money that has been deducted from an officer's or employee's compensation but has not been used to purchase savings bonds shall be remitted immediately [~~by proper warrant~~] to the individual from whose compensation the money has been deducted.

SECTION 1.27. Subtitle B, Title 6, Government Code, is amended by adding Chapter 666 to read as follows:

CHAPTER 666. PAYROLL DEDUCTION TO RECOUP EXCESS COMPENSATION PAID TO A STATE OFFICER OR EMPLOYEE

Sec. 666.001. DEFINITIONS. In this chapter:

(1) "Compensation" includes:

(A) base salary or wages;

(B) longevity or hazardous duty pay;

(C) benefit replacement pay;

(D) a payment for the balance of vacation and sick leave under Subchapter B, Chapter 661;

(E) a payment for the accrued balance of vacation time under Subchapter C, Chapter 661; and

(F) an emolument provided in lieu of base salary or wages.

(2) "Indebtedness" means the amount of compensation paid to a state employee that exceeds the amount the employee is eligible to receive under law.

(3) "State agency" means a board, commission, council, committee, department, office, agency, or other governmental entity in the executive, legislative, or judicial branch of state government. The term includes:

(A) the Texas Guaranteed Student Loan Corporation; and

(B) an institution of higher education as defined by Section 61.003, Education Code, other than a public junior or community college.

(4) "State employee" means an officer or employee of a state agency.

(5) "Successor" means:

(A) the estate of a deceased state employee;

(B) the surviving spouse of a deceased state employee; or

(C) the distributees of the estate of a deceased state employee.

Sec. 666.002. DEDUCTION AUTHORIZATION. (a) A state agency may deduct the amount of a state employee's indebtedness to the agency from any amount of compensation the agency owes the employee or the employee's successor if:

(1) the agency provides a notice to the employee or successor that complies with Section 666.003;

(2) the agency provides the employee or successor with an opportunity to exercise any due process or other constitutional or statutory protection that must be accommodated before the agency may begin a collection action or procedure;

(3) the agency determines that the deduction would not violate any applicable law or rule of this state or the United States; and

(4) the comptroller is not responsible under Section 404.046, 404.069, or 2103.003 for paying the amount owed by the agency to the employee or successor through the issuance of a warrant or initiation of an electronic funds transfer.

(b) The comptroller may deduct the amount of a state employee's indebtedness to a state agency from any amount of compensation the agency owes the employee or the employee's successor if:

(1) the agency provides a notice to the employee or successor that complies with Section 666.003;

(2) the agency requests the comptroller to make the deduction in accordance with Section 666.005; and

(3) the comptroller is responsible under Section 404.046, 404.069, or 2103.003 for paying the amount owed by the agency to the employee or the successor through the issuance of a warrant or initiation of an electronic funds transfer.

Sec. 666.003. NOTICE. (a) A state agency shall provide notice to a state employee or the employee's successor before the agency:

(1) deducts the amount of the employee's indebtedness to the agency under Section 666.002(a); or

(2) requests the comptroller to make a deduction under Section 666.002(b).

(b) The notice must:

(1) be given in a manner reasonably calculated to give actual notice to the employee or successor;

(2) state the:

(A) amount of the indebtedness; and

(B) name of the indebted employee;

(3) specify the date by which the indebtedness must be paid; and

(4) inform the employee or successor that unless the indebtedness is paid on or before the date specified, the amount of the indebtedness may be deducted from any amount of compensation the agency owes the employee or successor.

Sec. 666.004. PAYMENT OF AMOUNT REMAINING. Any amount that remains owed after a deduction under Section 666.002 shall be paid to the state employee or successor.

Sec. 666.005. DEDUCTION REQUESTS TO THE COMPTROLLER. (a) A state agency may not request the comptroller to make a deduction from compensation owed to a state employee or successor under Section 666.002(b) before the agency:

(1) provides the employee or successor the opportunity to exercise any due process or other constitutional or statutory protection that must be accommodated before a collection action or procedure may begin; and

(2) determines that the deduction would not violate any applicable law or rule of this state or the United States.

(b) The comptroller may not investigate or determine whether the agency has complied with Subsection (a)(1). The comptroller may rely on a determination made under Subsection (a)(2).

(c) A state agency's request to the comptroller to make a deduction under Section 666.002(b) must comply with the comptroller's requirements for format, content, and frequency.

Sec. 666.006. ASSIGNEES. The assignee of a state employee or the employee's successor is considered to be a successor for the purposes of this chapter, except that a deduction under this chapter from the compensation owed to the assignee of a state employee or the employee's successor may not be made if the assignment became effective after the employee incurred the indebtedness.

Sec. 666.007. ADMINISTRATION. The comptroller may adopt rules and establish procedures to administer this chapter.

SECTION 1.28. Section 2103.003, Government Code, is amended to read as follows:

Sec. 2103.003. STATE AGENCY SPENDING OF APPROPRIATED FUNDS. A state agency may spend appropriated funds only by:

(1) a warrant drawn by:

(A) the comptroller; or

(B) a person that [~~state agency to which~~] the comptroller has delegated authority to print warrants under Section 403.060; [~~or~~]

(2) an electronic funds transfer initiated by the comptroller; or

(3) a debit to a state account by a person authorized under Section 403.0271.

SECTION 1.29. Chapter 2107, Government Code, is amended by adding Section 2107.008 to read as follows:

Sec. 2107.008. PAYMENTS TO DEBTORS OR DELINQUENTS PROHIBITED. (a) Except as provided by this section, a state agency, as a ministerial duty, may not use funds in or outside of the state treasury to pay a person if:

(1) Section 403.055 prohibits the comptroller from issuing a warrant or initiating an electronic funds transfer to the person; or

(2) the person is indebted to the state or has a tax delinquency, the agency is responsible for collecting that indebtedness or delinquency, and Section 403.055 does not prohibit the comptroller from issuing a warrant or initiating an electronic funds transfer to the person.

(b) A state agency may not pay the assignee of a person that the agency may not pay under Subsection (a)(1) if Section 403.055 prohibits the comptroller from issuing a warrant or initiating an electronic funds transfer to the assignee. The agency may not pay the assignee of a person that the agency may not pay under Subsection (a)(2) if the assignment became effective after the person became indebted to the state or incurred a tax delinquency.

(c) A state agency that Subsection (a) prohibits from making a payment to a person also is prohibited from paying any part of that payment to:

(1) the person's estate;

(2) the distributees of the person's estate; or

(3) the person's surviving spouse.

(d) This section does not prohibit a state agency from paying a person subject to Subsection (a)(2) or the person's assignee if the agency determines that the person is complying with an installment payment agreement or similar agreement between the agency and that person to pay or eliminate the debt or delinquency.

(e) The comptroller may not reimburse a state agency for a payment that the comptroller determines was made in violation of this section.

(f) Subsection (a)(2) does not prohibit a state agency from paying:

(1) the compensation of a state officer or employee; or

(2) the remuneration of an individual if the remuneration is being paid by a private person through the agency.

(g) Subsection (a)(2) does not prohibit a state agency from making a payment if:

(1) the payment would be made in whole or in part with money paid to the state by the United States; and

(2) the agency determines that federal law:

(A) requires the payment to be made; or

(B) conditions the state's receipt of the money on the payment being made.

(h) A state agency may not refuse to make a payment under Subsection (a)(2) before the agency has provided the person with an opportunity to exercise any due process or other constitutional or statutory protection that must be accommodated before the agency or the state may begin a collection action or procedure.

(i) This section does not apply to the extent that Section 57.482, Education Code, applies.

(j) This section applies to a payment only if the comptroller is not responsible under Section 404.046, 404.069, or 2103.003 for issuing a warrant or initiating an electronic funds transfer to make the payment.

(k) Notwithstanding Section 2107.001, in this section "compensation,"

"state agency," "state officer or employee," and "tax delinquency" have the meanings assigned by Section 403.055.

SECTION 1.30. Section 2254.030, Government Code, is amended to read as follows:

Sec. 2254.030. PUBLICATION IN TEXAS REGISTER AFTER ENTERING INTO MAJOR CONSULTING SERVICES CONTRACT. Not later than the 20th [~~10th~~] day after the date of entering into a major consulting services contract, the contracting state agency shall file with the secretary of state for publication in the Texas Register:

(1) a description of the activities that the consultant will conduct;

(2) the name and business address of the consultant;

(3) the total value and the beginning and ending dates of the contract; and

(4) the dates on which documents, films, recordings, or reports that the consultant is required to present to the agency are due.

SECTION 1.31. Sections 2254.031(a) and (c), Government Code, are amended to read as follows:

(a) A state agency that intends to renew a major consulting services contract shall:

(1) file with the secretary of state for publication in the Texas Register the information required by Section 2254.030 not later than the 20th [~~10th~~] day after the date the contract is renewed if the renewal contract is not a major consulting services contract; or

(2) comply with Sections 2254.028 and 2254.029 if the renewal contract is a major consulting services contract.

(c) A state agency that intends to amend or extend a major consulting services contract shall:

(1) not later than the 20th [~~10th~~] day after the date the contract is amended or extended, file the information required by Section 2254.030 with the secretary of state for publication in the Texas Register if the contract after the amendment or extension is not a major consulting services contract; or

(2) comply with Sections 2254.028 and 2254.029 if the contract after the amendment or extension is a major consulting services contract.

SECTION 1.32. Section 2254.034(c), Government Code, is amended to read as follows:

(c) If a contract is void under this section:

(1) the comptroller may not draw a warrant or transmit money to satisfy an obligation under the contract; and

(2) a state agency may not make any payment under the contract with state or federal money or money held in or outside the state treasury [~~until the agency has complied with Sections 2254.029 through 2254.031~~].

SECTION 1.33. Section 31.038, Human Resources Code, is amended to read as follows:

Sec. 31.038. CANCELLATION OF UNCASHED WARRANTS. The [~~On authorization by the~~] department[~~, the comptroller~~] may cancel a financial assistance warrant [~~warrants~~] that has [~~have~~] not been cashed within a reasonable period of time after issuance. The cancellation must be performed in the manner required by rules of the comptroller.

ARTICLE 2. TECHNICAL CHANGES REGARDING TAXES AND FEES

SECTION 2.01. Subsection (g), Article 102.075, Code of Criminal Procedure, is amended to read as follows:

(g) A municipality or county may retain 10 percent of the money collected under this article as a service fee for the collection if the municipality or county remits the funds to the comptroller within the period prescribed in Subsection (f). The municipality or county may retain any interest accrued on the money if the custodian of the money deposited in the treasury keeps records of the amount of money collected under this article that is on deposit in the treasury and remits the funds to the comptroller within the period prescribed in Subsection (f).

SECTION 2.02. Section 403.014(b), Government Code, is amended to read as follows:

(b) The report must include:

(1) an analysis of each special provision that reduces the amount of tax payable, to include an estimate of the loss of revenue for a six-year period including the current fiscal biennium and a citation of the statutory or legal authority for the provision; and

(2) for provisions reducing revenue by more than one percent of total revenue for a tax covered by this section:

(A) [~~,~~] the effect of each provision on the distribution of the tax burden by income class and industry or business class, as appropriate; and

(B) the effect of each provision on total income by income class.

SECTION 2.03. Section 403.0141(c), Government Code, is amended to read as follows:

(c) To the extent data is available, the incidence impact analysis under Subsections (a) and (b):

(1) shall evaluate the tax burden:

(A) on the overall income distribution, using a systemwide incidence measure or other appropriate measures of equality and inequality; and

(B) on income classes, including, at a minimum, quintiles of the income distribution, on renters and homeowners, on industry or business classes, as appropriate, and on various types of business organizations;

(2) may evaluate the tax burden:

(A) by other appropriate taxpayer characteristics, such as whether the taxpayer is a farmer, rancher, retired elderly, or resident or nonresident of the state; and

(B) by distribution of impact on consumers, labor, capital, and out-of-state persons and entities; [~~and~~]

(3) shall evaluate the effect of each tax on total income by income group; and

(4) shall:

(A) use the broadest measure of economic income for which reliable data is available; and

(B) include a statement of the incidence assumptions that were used in making the analysis.

SECTION 2.04. Section 12(b), Article 1.14-1, Insurance Code, is amended to read as follows:

(b) The report shall be filed and any tax due shall be paid by the insured or by any other person designated by the insured. The report and tax are due on or before May 15 [~~March 1~~] of the calendar year after the calendar year in which the insurance was procured, continued, or renewed or on another date prescribed by the comptroller.

SECTION 2.05. Sections 12(a) and (b), Article 1.14-2, Insurance Code, are amended to read as follows:

(a) The premiums charged for surplus lines insurance are subject to a premium receipts tax of 4.85 percent of gross premiums charged for such insurance. The term premium includes all premiums, membership fees, assessments, dues or any other consideration for insurance. Such tax shall be in lieu of all other insurance taxes. The surplus lines agent shall collect from the insured the amount of the tax at the time of delivery of the cover note, certificate of insurance, policy or other initial confirmation of insurance, in addition to the full amount of the gross premium charged by the insurer for the insurance. No agent shall absorb such tax nor shall any agent, as an inducement for insurance or for any other reason, rebate all or any part of such tax or his commission. The surplus lines agent shall file a report and pay taxes to the comptroller on or before March 1 of each year on forms prescribed by the comptroller. The [~~the~~] amount of taxes shall be based on gross premiums written or received for such insurance placed through an eligible surplus lines insurer during the calendar year ending on the preceding December 31. A tax prepayment shall be required any time accrued taxes due equal or exceed $70,000. The prepayment of the accrued taxes, with a form prescribed by the comptroller, shall be due by the 15th day of the month following the month in which accrued taxes total $70,000 [~~and shall pay to the comptroller the tax as provided for by this Article~~]. If a surplus lines policy covers risks or exposures only partially in this state, the tax payable shall be computed on the portions of the premium which are properly allocated to the risks or exposures located in this state. In determining the amount of premiums taxable in this state, all premiums written, procured, or received in this state and all premiums on policies negotiated in this state shall be deemed written on property or risks located or resident in this state, except such premiums as are properly allocated or apportioned and reported as premiums which may be subject to taxation by any other state or states. Premiums that are properly allocated to any other state or states that are specifically exempt from taxation under the regulations of that state or states are not taxable in this state. Premiums on risks or exposures which are properly allocated to federal waters, international waters or under the jurisdiction of a foreign government shall not be taxable by this state. In event of cancellation and rewriting of any surplus lines insurance contract the additional premium for premium receipts tax purposes shall be the premium in excess of the unearned premium of the canceled insurance contract.

(b) All surplus lines premium receipt taxes collected by a surplus lines agent are trust funds in his hands [~~and the property of this state. Such funds shall be maintained by the surplus lines agent in a separate account and shall~~

~~not be mingled with any other funds, either business or private~~]. Any surplus lines agent who fails or refuses to pay over to the state the surplus lines premium receipts tax at the time required by [~~in~~] this section, or who fraudulently withholds or appropriates or otherwise uses such money or any portions thereof belonging to the state is guilty of theft and shall be punished as provided by law for the crime of theft, irrespective of whether any such surplus lines agent has or claims to have any interest in such money so received by him.

SECTION 2.06. Section 9(b), Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code), is amended to read as follows:

(b) Premiums on policies, insurance contracts, or agreements with health maintenance organizations established under this Act are not subject to any state tax, regulatory fee, or surcharge, including premium or maintenance taxes or fees.

SECTION 2.07. Section 11(b), Texas Public School Employees Group Insurance Act (Article 3.50-4, Insurance Code), is amended to read as follows:

(b) A premium or contribution on a policy, insurance contract, or agreement authorized as provided by this article is not subject to any state tax, regulatory fee, or surcharge, including premium or maintenance taxes or fees.

SECTION 2.08. Section 326.029(a), Local Government Code, is amended to read as follows:

(a) If a majority of the votes received in the election favor the creation of the district and the adoption of the sales and use tax, the commissioners court shall by resolution or order declare that the district is created and shall declare the amount of the local sales and use tax adopted and enter the result in its minutes.

SECTION 2.09. Section 326.092(a), Local Government Code, is amended to read as follows:

(a) Chapter 323, Tax Code, to the extent not inconsistent with this chapter, governs the imposition, computation, administration, and governance of the tax under this subchapter, except that Sections 323.101, 323.105, [~~and~~] 323.404, and 323.406 through 323.408, Tax Code, do not apply.

SECTION 2.10. Section 101.003, Tax Code, is amended by adding Subdivision (13) to read as follows:

(13) "Tax" means a tax, fee, assessment, charge, or other amount that the comptroller is authorized to administer.

SECTION 2.11. Section 111.0041(b), Tax Code, is amended to read as follows:

(b) This section prevails over any other conflicting provision of this title [~~except Section 191.024(b) of this code~~].

SECTION 2.12. Section 111.023, Tax Code, is amended to read as follows:

Sec. 111.023. WRITTEN AUTHORIZATION. (a) The comptroller may require that a report, return, declaration, claim for refund, or other document that is required or permitted to be filed with the comptroller and that is submitted by an attorney, accountant, or other representative of a taxpayer

[~~person~~] on behalf of the taxpayer [~~person~~] be accompanied by express written authorization of the taxpayer [~~person~~] in whose name or on whose behalf it is purportedly submitted.

(b) An officer, director, or employee of the taxpayer whose duties include administering the taxpayer's rights and responsibilities with the comptroller may sign the written authorization. The authorization must include the title and telephone number of the officer, director, or employee who signs the authorization for verification by the comptroller.

(c) The comptroller may impose a requirement of Subsection (b) on a taxpayer's assignment of a claim for refund.

SECTION 2.13. Section 111.104(e), Tax Code, is amended to read as follows:

(e) This section applies to all taxes and license fees collected or administered by the comptroller, except the state property tax [~~and those taxes that qualify for refund allowed under Section 151.318(g) or (n)~~].

SECTION 2.14. Section 111.107, Tax Code, is amended to read as follows:

Sec. 111.107. WHEN REFUND OR CREDIT IS PERMITTED. Except as otherwise expressly provided, a person may request a refund or a credit or the comptroller may make a refund or issue a credit for the overpayment of a tax imposed by this title at any time before the expiration of the period during which the comptroller may assess a deficiency for the tax and not thereafter unless the refund or credit is requested:

(1) under Subchapter B of Chapter 112 and the refund is made or the credit is issued under a court order;

(2) under the provision of Section 111.104(c)(3) applicable to a refund claim filed after a jeopardy or deficiency determination becomes final; or

(3) under Chapter 153, except Section 153.1195(e), 153.121(d), 153.2225(e), or 153.224(d)[~~; or~~

[~~(4) under Section 151.318(g) or (n)~~].

SECTION 2.15. Sections 151.310(c) and (e), Tax Code, are amended to read as follows:

(c) An organization that qualifies for an exemption under Subsection (a)(1) or (a)(2) of this section, and each bona fide chapter of the organization, may hold two tax-free sales or auctions under this subsection during a calendar year and each tax-free sale or auction may continue for one day only. The sale of a taxable item the sales price of which is $5,000 or less by a qualified organization or chapter of the organization at a tax-free sale or auction is exempted from the sales tax imposed by Subchapter C of this chapter, except that a taxable item manufactured by or donated to the qualified organization or chapter of the organization may be sold tax free regardless of the sales price to any purchaser other than the donor. The storage, use, or consumption of a taxable item that is acquired from a qualified organization or chapter of the organization at a tax-free sale or auction and that is exempted under this subsection from the taxes imposed by Subchapter C of this chapter is exempted from the use tax imposed by Subchapter D of this chapter until the item is resold or subsequently transferred.

(e) A nonprofit hospital or hospital system that qualifies for an exemption under Subsection (a)(2) shall provide community benefits that include charity care and government-sponsored indigent health care [~~community benefits~~] as set forth in Subchapter D, Chapter 311, Health and Safety Code. [~~Subdivision (1), (2), (3), (4), (5), (6), (7), or (8) below:~~

[~~(1) charity care and government-sponsored indigent health care are provided at a level which is reasonable in relation to the community needs, as determined through the community needs assessment, the available resources of the hospital or hospital system, and the tax-exempt benefits received by the hospital or hospital system;~~

[~~(2) charity care and government-sponsored indigent health care are provided in an amount equal to at least four percent of the hospital's or hospital system's net patient revenue;~~

[~~(3) charity care and government-sponsored indigent health care are provided in an amount equal to at least 100 percent of the hospital's or hospital system's tax-exempt benefits, excluding federal income tax;~~

[~~(4) for tax periods beginning before January 1, 1996, charity care and community benefits are provided in a combined amount equal to at least five percent of the hospital's or hospital system's net patient revenue, provided that charity care and government-sponsored indigent health care are provided in an amount equal to at least three percent of net patient revenue;~~

[~~(5) for tax periods beginning after December 31, 1995, charity care and community benefits are provided in a combined amount equal to at least five percent of the hospital's or hospital system's net patient revenue, provided that charity care and government-sponsored indigent health care are provided in an amount equal to at least four percent of net patient revenue;~~

[~~(6) a nonprofit hospital that has been designated as a disproportionate share hospital under the state Medicaid program in the current year or in either of the previous two fiscal years is considered to have provided a reasonable amount of charity care and government-sponsored indigent health care and is considered in compliance with the standards provided by this subsection;~~

[~~(7) a hospital operated on a nonprofit basis that is located in a county with a population of less than 50,000 and in which the entire county or the population of the entire county has been designated as a health professionals shortage area is considered to be in compliance with the standards provided by this subsection; or~~

[~~(8) a hospital providing health care services to inpatients or outpatients without receiving any payment for providing those services from any source, including the patient or person legally obligated to support the patient, third-party payors, Medicare, Medicaid, or any other state or local indigent care program but excluding charitable donations, legacies, bequests, or grants or payments for research, is considered to be in compliance with the standards provided by this subsection.~~

[~~For purposes of satisfying Subdivision (5), a hospital or hospital system may not change its existing fiscal year unless the hospital or hospital system changes its ownership or corporate structure as a result of a sale or merger.~~

[~~For purposes of this subsection, a hospital that satisfies Subdivision (1),~~

~~(6), (7), or (8) shall be excluded in determining a hospital system's compliance with the standards provided by Subdivision (2), (3), (4), or (5).~~

~~[For purposes of this subsection, the terms "charity care," "government-sponsored indigent health care," "health care organization," "hospital system," "net patient revenue," "nonprofit hospital," and "tax-exempt benefits" have the meanings set forth in Sections 311.031 and 311.042, Health and Safety Code. A determination of the amount of community benefits and charity care and government-sponsored indigent health care provided by a hospital or hospital system and the hospital's or hospital system's compliance with the requirements of this subsection and Section 311.045, Health and Safety Code, shall be based on the most recently completed and audited prior fiscal year of the hospital or hospital system.~~

~~[The providing of charity care and government-sponsored indigent health care in accordance with Subdivision (1) shall be guided by the prudent business judgment of the hospital which will ultimately determine the appropriate level of charity care and government-sponsored indigent health care based on the community needs, the available resources of the hospital, the tax-exempt benefits received by the hospital, and other factors that may be unique to the hospital, such as the hospital's volume of Medicare and Medicaid patients. These criteria shall not be determinative factors, but shall be guidelines contributing to the hospital's decision along with other factors which may be unique to the hospital. The formulas contained in Subdivisions (2), (3), (4), and (5) shall also not be considered determinative of a reasonable amount of charity care and government-sponsored indigent health care.~~

~~[The requirements of this subsection shall not apply to the extent a hospital or hospital system demonstrates that reductions in the amount of community benefits, charity care, and government-sponsored indigent health care are necessary to maintain financial reserves at a level required by a bond covenant, are necessary to prevent the hospital or hospital system from endangering its ability to continue operations, or if the hospital or hospital system, as a result of a natural or other disaster, is required substantially to curtail its operations.~~

~~[In any fiscal year that a hospital or hospital system, through unintended miscalculation, fails to meet any of the standards in this subsection, the hospital or hospital system shall not lose its tax-exempt status without the opportunity to cure the miscalculation in the fiscal year following the fiscal year the failure is discovered by both meeting one of the standards and providing an additional amount of charity care and government-sponsored indigent health care that is equal to the shortfall from the previous fiscal year. A hospital or hospital system may apply this provision only once every five years.~~]

SECTION 2.16. Section 151.3101, Tax Code, is amended by adding Subsection (c) to read as follows:

(c) In this section, "educational organization" includes an entity described by Section 61.003(8) or (15), Education Code.

SECTION 2.17. Section 151.312, Tax Code, is amended to read as follows:

Sec. 151.312. PERIODICALS AND WRITINGS OF RELIGIOUS, PHILANTHROPIC, CHARITABLE, HISTORICAL, SCIENTIFIC, AND SIMILAR ORGANIZATIONS. Periodicals and writings, including those presented on audio tape, videotape, and computer disk, that are published and [~~or~~] distributed by a religious, philanthropic, charitable, historical, scientific, or other similar organization that is not operated for profit, but excluding an educational organization, are exempted from the taxes imposed by this chapter.

SECTION 2.18. Section 151.317, Tax Code, is amended to read as follows:

Sec. 151.317. GAS AND ELECTRICITY. (a) Subject to Subsection (d), gas [~~Gas~~] and electricity are exempted from the taxes imposed by this chapter [~~except~~] when sold for:

(1) residential use;

(2) use in powering equipment exempt under Section 151.318 by a person processing tangible personal property for sale as tangible personal property, other than preparation or storage of food for immediate consumption;

(3) use in lighting, cooling, and heating in the manufacturing area during the actual manufacturing or processing of tangible personal property for sale as tangible personal property, other than preparation or storage of food for immediate consumption;

(4) use directly in exploring for, producing, or transporting, a material extracted from the earth;

(5) use in agriculture, including dairy or poultry operations and pumping for farm or ranch irrigation;

(6) use directly in electrical processes, such as electroplating, electrolysis, and cathodic protection;

(7) use directly in the off-wing processing, overhaul, or repair of a jet turbine engine or its parts for a certificated or licensed carrier of persons or property;

(8) use directly in providing, under contracts with or on behalf of the United States government or foreign governments, defense or national security-related electronics, classified intelligence data processing and handling systems, or defense-related platform modifications or upgrades; or

(9) a direct or indirect use, consumption, or loss of electricity by an electric utility engaged in the purchase of electricity for resale [~~commercial use~~].

(b) The sale, production, distribution, lease, or rental of, and the use, storage, or other consumption in this state of, gas and electricity sold for the uses listed in Subsection (a), [~~except when sold for residential or commercial use,~~] are exempted from the taxes imposed by a municipality [~~city~~] under Chapter 321 except [~~the Local Sales and Use Tax Act, unless sales for residential use are further exempted by the city~~] as provided by Section 321.105 [~~the Local Sales and Use Tax Act~~].

(c) In this section, "residential [~~:~~

[~~(1) "Residential~~] use" means use:

(1) [~~(A)~~] in a family dwelling or in a multifamily apartment or

housing complex or building or in a part of a building occupied as a home or residence when the use is by the owner of the dwelling, apartment, complex, or building or part of the building occupied; or

(2) [~~(B)~~] in a dwelling, apartment, house, or building or part of a building occupied as a home or residence when the use is by a tenant who occupies the dwelling, apartment, house, or building or part of a building under a contract for an express initial term for longer than 29 consecutive days.

(d) To qualify for the exemptions in Subsections (a)(2)-(8), the gas or electricity must be sold to the person using the gas or electricity in the exempt manner. For purposes of this subsection, the use of gas or electricity in an exempt manner by an independent contractor engaged by the purchaser of the gas or electricity to perform one or more of the exempt activities identified in Subsections (a)(2)-(8) is considered use by the purchaser of the gas or electricity.

(e) Natural gas or electricity used during a regular monthly billing period for both exempt and taxable purposes under a single meter is totally exempt or taxable based on the predominant use of the natural gas or electricity measured by that meter. The comptroller may prescribe by rule the procedures by which a purchaser must establish the predominant use of the natural gas or electricity.

[~~(2) "Commercial use" means use by a person engaged in selling, warehousing, or distributing a commodity or a professional or personal service, but does not include:~~

[~~(A) use by a person engaged in:~~

[~~(i) processing tangible personal property for sale as tangible personal property, other than preparation or storage of food for immediate consumption;~~

[~~(ii) exploring for, producing, or transporting, a material extracted from the earth;~~

[~~(iii) agriculture, including dairy or poultry operations and pumping for farm or ranch irrigation;~~

[~~(iv) electrical processes such as electroplating, electrolysis, and cathodic protection;~~

[~~(v) the off-wing processing, overhaul, or repair of a jet turbine engine or its parts for a certificated or licensed carrier of persons or property; or~~

[~~(vi) providing, under contracts with or on behalf of the United States government or foreign governments, defense or national security-related electronics, classified intelligence data processing and handling systems, or defense-related platform modifications or upgrades; or~~

[~~(B) a direct or indirect use, consumption, or loss of electricity by an electric utility engaged in the purchase of electricity for resale.~~]

SECTION 2.19. Section 151.318, Tax Code, is amended by amending Subsections (a), (c), (o), (q), and (s), and adding Subsections (f) and (t) to read as follows:

(a) The following items are exempted from the taxes imposed by this

chapter if sold, leased, or rented to, or stored, used, or consumed by a manufacturer:

(1) tangible personal property that will become an ingredient or component part of tangible personal property manufactured, processed, or fabricated for ultimate sale;

(2) tangible personal property directly used or consumed in or during the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if the use or consumption of the property is necessary or essential to the manufacturing, processing, or fabrication operation and directly makes or causes a chemical or physical change to:

(A) the product being manufactured, processed, or fabricated for ultimate sale; or

(B) any intermediate or preliminary product that will become an ingredient or component part of the product being manufactured, processed, or fabricated for ultimate sale;

(3) services performed directly on the product being manufactured prior to its distribution for sale and for the purpose of making the product more marketable;

(4) actuators, steam production equipment and its fuel, in-process flow through tanks, cooling towers, generators, heat exchangers, transformers and the switches, breakers, capacitor banks, regulators, relays, reclosers, fuses, interruptors, reactors, arrestors, resistors, insulators, instrument transformers, and telemetry units that are related to the transformers, electronic control room equipment, computerized control units, pumps, compressors, and hydraulic units, that are used to power, supply, support, or control equipment that qualifies for exemption under Subdivision (2) or (5) or to generate electricity, chilled water, or steam for ultimate sale; transformers located at an electric generating facility that increase the voltage of electricity generated for ultimate sale, the electrical cable that carries the electricity from the electric generating equipment to the step-up transformers, and the switches, breakers, capacitor banks, regulators, relays, reclosers, fuses, interruptors, reactors, arrestors, resistors, insulators, instrument transformers, and telemetry units that are related to the step-up transformers; and transformers that decrease the voltage of electricity generated for ultimate sale and the switches, breakers, capacitor banks, regulators, relays, reclosers, fuses, interruptors, reactors, arrestors, resistors, insulators, instrument transformers, and telemetry units that are related to the step-down transformers; [~~and~~]

(5) tangible personal property [~~machinery, equipment, and replacement parts or accessories~~] used or consumed in the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if the [~~their~~] use or consumption of the property is necessary and essential to a pollution control process;

(6) lubricants, chemicals, chemical compounds, gases, or liquids that are used or consumed during the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if their use or consumption is necessary and essential to prevent the decline, failure, lapse, or deterioration of equipment exempted by this section;

(7) gases used on the premises of a manufacturing plant to prevent

contamination of raw material or product, or to prevent a fire, explosion, or other hazardous or environmentally damaging situation at any stage in the manufacturing process or in loading or storage of the product or raw material on premises;

(8) tangible personal property used or consumed during the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if the use or consumption of the property is necessary and essential to a quality control process;

(9) safety apparel or work clothing that is used during the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if:

(A) the manufacturing process would not be possible without the use of the apparel or clothing; and

(B) the apparel or clothing is not resold to the employee;

(10) tangible personal property used or consumed in the actual manufacturing, processing, or fabrication of tangible personal property for ultimate sale if the use or consumption of the property is necessary and essential to comply with federal, state, or local laws or rules that establish requirements related to public health; and

(11) tangible personal property specifically installed to:

(A) reduce water use and wastewater flow volumes from the manufacturing, processing, fabrication, or repair operation;

(B) reuse and recycle wastewater streams generated within the manufacturing, processing, fabrication, or repair operation; or

(C) treat wastewater from another industrial or municipal source for the purpose of replacing existing freshwater sources in the manufacturing, processing, fabrication, or repair operation.

(c) The exemption does not include:

(1) intraplant transportation equipment, including intraplant transportation equipment used to move a product or raw material in connection with the manufacturing process and specifically including all piping and conveyor systems, provided that the following remain eligible for the exemption:

(A) piping or conveyor systems that are [~~is~~] a component part of a single item of manufacturing equipment or pollution control equipment eligible for the exemption under Subsection (a)(2), (a)(4), or (a)(5);

(B) piping through which the product or an intermediate or preliminary product that will become an ingredient or component part of the product is recycled or circulated in a loop between the single item of manufacturing equipment and the ancillary equipment that supports only that single item of manufacturing equipment if the single item of manufacturing equipment and the ancillary equipment operate together to perform a specific step in the manufacturing process; and

(C) piping through which the product or an intermediate or preliminary product that will become an ingredient or component part of the product is recycled back to another single item of manufacturing equipment and its ancillary equipment in the same manufacturing process [~~remains eligible for the exemption~~];

(2) [~~maintenance or janitorial supplies or equipment or other machinery, equipment, materials, or supplies that are used incidentally in a manufacturing, processing, or fabrication operation;~~

[~~(3)~~] hand tools;

(3) maintenance supplies not otherwise exempted under this section, maintenance equipment, janitorial supplies or equipment, [~~(4)~~] office equipment or supplies, equipment or supplies used in sales or distribution activities, research or development of new products, or transportation activities[~~, or other tangible personal property not used in an actual manufacturing, processing, or fabrication operation~~]; [~~or~~]

(4) [~~(5)~~] machinery and equipment or supplies to the extent not otherwise exempted under this section used to maintain or store tangible personal property; or

(5) tangible personal property used in the transmission or distribution of electricity, including transformers, cable, switches, breakers, capacitor banks, regulators, relays, reclosers, fuses, interruptors, reactors, arrestors, resistors, insulators, instrument transformers, and telemetry units not otherwise exempted under this section, and lines, conduit, towers, and poles.

(f) For purposes of Subsection (c)(1), piping through which material is transported forward from one single item of manufacturing equipment and its ancillary support equipment to another single item of manufacturing equipment and its ancillary support equipment is not considered a component part of a single item of manufacturing equipment and is not exempt. An integrated group of manufacturing and processing machines and ancillary equipment that operate together to create or produce the product or an intermediate or preliminary product that will become an ingredient or component part of the product is not a single item of manufacturing equipment.

(o) The production of a publication for the dissemination of news of a general character and of a general interest that is printed on newsprint and distributed to the general public free of charge at a daily, weekly, or other short interval is considered "manufacturing" for purposes of [~~Subsections (d)-(m) of~~] this section.

(q) For purposes of Subsection (b), "semiconductor fabrication cleanrooms and equipment" means all tangible personal property, without regard to whether the property is affixed to or incorporated into realty, used in connection with the manufacturing, processing, or fabrication in a cleanroom environment of a semiconductor product, without regard to whether the property is actually contained in the cleanroom environment. The term includes integrated systems, fixtures, and piping, all property necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity, or other environmental conditions or manufacturing tolerances, and production equipment and machinery. The term does not include the building or a permanent, nonremovable component of the building, that houses the cleanroom environment. The term includes moveable cleanroom partitions and cleanroom lighting. "Semiconductor fabrication cleanrooms and equipment" are not "intraplant [~~"interplant~~] transportation equipment" [~~or "used incidentally in a manufacturing,~~

~~processing, or fabrication operation"~~] as that term is [~~those terms are~~] used in Subsection [~~Subsections~~] (c)(1) [~~and (c)(2)~~].

(s) The following do not apply to the semiconductor fabrication cleanrooms and equipment in Subsection (q):

(1) limitations in Subsection (a)(2) that refer to tangible personal property directly causing chemical and physical changes to the product being manufactured, processed, or fabricated for ultimate sale;

(2) Subsection (c)(1); and

(3) Subsection (c)(4)[~~(5)~~].

(t) In addition to the other items exempted under this section, pre-press machinery, equipment, and supplies, including computers, cameras, film, film developing chemicals, veloxes, plate-making machinery, plate metal, litho negatives, color separation negatives, proofs of color negatives, production art work, and typesetting or composition proofs, that are necessary and essential to and used in connection with the printing process are exempted from the tax imposed by this chapter if they are purchased by a person engaged in:

(1) printing or imprinting tangible personal property for sale; or

(2) producing a publication for the dissemination of news of a general character and of a general interest that is printed on newsprint and distributed to the general public free of charge at a daily, weekly, or other short interval.

SECTION 2.20. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.3185 to read as follows:

Sec. 151.3185. PROPERTY USED IN THE PRODUCTION OF MOTION PICTURES OR VIDEO OR AUDIO RECORDINGS AND BROADCASTS. (a) The sale, lease, or rental or storage, use, or other consumption of the following items are exempted from the taxes imposed by this chapter:

(1) tangible personal property that will become an ingredient or component part of:

(A) a motion picture or video or audio recording, a copy of which is sold or offered for ultimate sale, licensed, distributed, broadcast, or otherwise exhibited; or

(B) a broadcast by a producer of cable programs or by a radio or television station licensed by the Federal Communications Commission;

(2) tangible personal property that is necessary or essential to and used or consumed in or during:

(A) the production of a motion picture or video or audio recording, a copy of which is sold or offered for ultimate sale, licensed, distributed, broadcast, or otherwise exhibited; or

(B) the production of a broadcast by or for a cable program producer or by or for a radio or television station licensed by the Federal Communications Commission; and

(3) except as provided by Subsection (c), services that are necessary and essential to and used directly in a production described by Subdivision (2)(A) or (B).

(b) The exemption includes:

(1) cameras, film, and film developing chemicals that are necessary

and essential to and used or consumed in a production described by Subsection (a)(2)(A) or (B);

(2) lights, props, sets, teleprompters, microphones, digital equipment, special effects equipment and supplies, and other equipment that is necessary and essential to and used or consumed directly in a production described by Subsection (a)(2)(A) or (B); and

(3) audio or video routing switchers located in a studio that are necessary and essential to and used or consumed directly in a production described by Subsection (a)(2)(A) or (B).

(c) The exemption does not include:

(1) office equipment or supplies;

(2) maintenance or janitorial equipment or supplies;

(3) machinery, equipment, or supplies used in sales, transmission, or transportation activities;

(4) machinery, equipment, or supplies used in distribution activities, unless otherwise exempted by this section;

(5) taxable items that are used incidentally in a production described by Subsection (a)(2)(A) or (B); or

(6) the following taxable items, regardless of whether they are used incidentally in a production described by Subsection (a)(2)(A) or (B):

(A) telecommunications equipment and services;

(B) transmission equipment;

(C) security services;

(D) motor vehicle parking services; and

(E) food ready for immediate consumption.

(d) A production described by Subsection (a)(2)(A) or (B) does not include a production for broadcast that is not intended to be broadcast to either the general public or to cable television service subscribers or paying customers.

SECTION 2.21. Section 151.321(a), Tax Code, is amended to read as follows:

(a) A taxable item sold by a qualified student organization and for which the sales price is $5,000 or less, is exempted from the taxes imposed by Subchapter C, except that a taxable item manufactured by or donated to the organization is exempt from the taxes imposed by Subchapter C regardless of sales price unless sold to the donor, if the student organization:

(1) sells the item at a sale that may last for one day only and the primary purpose of which is to raise funds for the organization; and

(2) holds not more than one sale described by Subdivision (1) each month for which an exemption is claimed for an item sold.

SECTION 2.22. Section 151.350(d), Tax Code, is amended to read as follows:

(d) In this section, "restore" means:

(1) launder, [~~or~~] clean, repair, treat, or apply protective chemicals to an item, to the extent the service is a personal service as defined in Section 151.0045; and

(2) repair, restore, or remodel, to the extent the service is:

(A) a real property repair or remodeling service as defined in Section 151.0047; or

(B) defined as a taxable service in Section 151.0101(a)(5) [~~151.0101(5)~~].

SECTION 2.23. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.354 to read as follows:

Sec. 151.354. SERVICES BY EMPLOYEES OF PROPERTY MANAGEMENT COMPANIES. (a) There are exempted from the taxes imposed by this chapter services performed by an employee of a property management company if:

(1) the employee is permanently assigned to one rental property by the property management company;

(2) the property management company is reimbursed on a dollar-for-dollar basis for the services provided; and

(3) the employee remains assigned to that property while employed by successive owners or management companies.

(b) This exemption does not apply to services performed by an employee for properties other than the one to which the employee is permanently assigned.

(c) For purposes of this section, a person is an employee of a property management company if either the property management company or an affiliate of the property management company employs the person.

(d) The property management company must:

(1) be contractually obligated to the property owner to exercise control over the activities of the employee providing the service; and

(2) manage and direct the employee's day-to-day activities.

(e) The property management company or the affiliate must pay tax on the taxable items purchased and provided to employees providing services on managed property.

(f) In this section, "property management company" means a person:

(1) who, for consideration, operates and manages all the activities at a property held by the owner for purposes of rental, including an office building, mall, or other retail or office complex, an apartment complex, a duplex, or a home; and

(2) whose responsibilities include securing tenants, hiring, and supervising employees for operation or upkeep of the property, receiving and applying revenues, and incurring and paying expenses derived from the operation of the property as directed by the owner.

(g) In this section, a corporation, limited liability company, partnership, trust, or estate is an affiliate of the property management company if an 80 percent ownership interest in the property management company or the corporation, limited liability company, partnership, trust, or estate is held by the other, or if a third person has an 80 percent ownership interest either directly or indirectly in both the property management company and the corporation, limited liability company, partnership, trust, or estate.

SECTION 2.24. Section 151.426, Tax Code, is amended by amending Subsection (c) and adding Subsections (e), (f), (g), (h), (i), and (j) to read as follows:

(c) Subject to Subsection (e), a [~~A~~] retailer or any person who extends credit to a purchaser under a retailer's private label credit agreement, or an

assignee or affiliate of either, is entitled to credit or reimbursement for taxes paid on the portion of:

(1) an account determined to be worthless and actually charged off for federal income tax purposes; or

(2) the remaining unpaid sales price of a taxable item when the item is repossessed under a conditional sales contract.

(e) A person is entitled to a credit or reimbursement provided by Subsection (c) only if:

(1) the retailer:

(A) has a valid sales or use tax permit; and

(B) remits the tax for which the credit or reimbursement is sought;

(2) all payments on an account are prorated between taxable and nontaxable charges; and

(3) the retailer or person claiming the credit or reimbursement provides detailed records outlining:

(A) the amount the purchaser contracted to pay;

(B) taxable and nontaxable charges;

(C) the tax collected and remitted;

(D) the unpaid portion of the sales price assigned; and

(E) the taxpayer number of the seller who collected and remitted the tax.

(f) A person whose volume and character of uncollectible accounts warrants an alternative method of substantiating the reimbursement or credit may:

(1) maintain records other than the records specified in Subsection (e) if:

(A) the records fairly and equitably apportion taxable and nontaxable elements of a bad debt and compute the amount of sales tax imposed and remitted with respect to the taxable charges remaining unpaid on the debt; and

(B) the comptroller approves the procedures used; or

(2) implement a system to report its future tax responsibilities based on a historical percentage calculated from a sample of transactions if:

(A) the system utilizes records provided by the person claiming the credit or reimbursement; and

(B) the comptroller approves the procedures used.

(g) The comptroller may revoke the authorization to report under Subsection (f)(2) if the comptroller determines that the percentage being used is no longer representative because of:

(1) a change in law, including a change in the interpretation of an existing law or rule; or

(2) a change in the taxpayer's business operations.

(h) A person claiming a credit or reimbursement under this section shall remit tax on any payments received on an account that has been written off and claimed as a bad debt.

(i) A person who is not a retailer may claim a credit or reimbursement authorized by Subsection (c) only for taxes imposed by Section 151.051 or 151.101.

(j) For purposes of this section, "affiliate" means any entity or entities that would be classified as a member of an affiliated group under 26 U.S.C. Section 1504.

SECTION 2.25. Sections 151.429(d) and (g), Tax Code, are amended to read as follows:

(d) To receive a refund under this section, an enterprise project must apply to the comptroller for the refund. The Texas Department of Economic Development [~~department of commerce~~] shall provide the comptroller with the assistance that the comptroller requires in administering this section.

(g) The refund provided by this section is conditioned on the enterprise project maintaining at least the same level of employment of qualified employees as existed at the time it qualified for a refund for a period of three years from that date. The Texas Department of Economic Development [~~Commerce~~] shall annually certify to the comptroller and the Legislative Budget Board whether that level of employment of qualified employees has been maintained. On the Texas Department of Economic Development [~~Commerce~~] certifying that such a level has not been maintained, the comptroller shall assess that portion of the refund attributable to any such decrease in employment, including penalty and interest from the date of the refund.

SECTION 2.26. Section 151.429(e)(1), Tax Code, is amended to read as follows:

(1) "Enterprise project" means a person designated by the Texas Department of Economic Development [~~Commerce~~] as an enterprise project under Chapter 2303, Government Code.

SECTION 2.27. Sections 151.4291(d) and (g), Tax Code, are amended to read as follows:

(d) To receive a refund under this section, a defense readjustment project must apply to the comptroller for the refund. The Texas Department of Economic Development [~~Commerce~~] shall provide the comptroller with the assistance that the comptroller requires in administering this section.

(g) The refund provided by this section is conditioned on the defense readjustment project maintaining at least the same level of employment of qualified employees as existed at the time it qualified for a refund for a period of three years from that date. The Texas Department of Economic Development [~~Commerce~~] shall annually certify to the comptroller and the Legislative Budget Board whether that level of employment of qualified employees has been maintained. On the Texas Department of Economic Development [~~Commerce~~] certifying that such a level has not been maintained, the comptroller shall assess that portion of the refund attributable to any such decrease in employment, including penalty and interest from the date of the refund.

SECTION 2.28. Section 151.4291(e)(1), Tax Code, is amended to read as follows:

(1) "Defense readjustment project" means a person designated by the Texas Department of Economic Development [~~Commerce~~] as a defense readjustment project under Chapter 2310, Government Code.

SECTION 2.29. Section 151.431(a), Tax Code, is amended to read as follows:

(a) A qualified business operating in the enterprise zone's jurisdiction for at least three consecutive years may apply for and be granted a onetime refund of sales and use tax paid by the qualified business after certification of the qualified business as provided by Subsection (b) of this section to a vendor or directly to the state for the purchase of equipment or machinery sold to the business for use in an enterprise zone if the governing body or bodies certify to the Texas Department of Economic Development [~~Commerce~~] that the business is retaining 10 or more jobs held by qualified employees during the year. For the purposes of this subsection "job" means an existing employment position of a qualified business that has provided employment to a qualified employee of at least 1,820 hours annually.

SECTION 2.30. Section 152.002, Tax Code, is amended by adding Subsection (d) to read as follows:

(d) A person who holds a lessor license under the Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes) or is specifically not required to obtain a lessor license under Section 4.01(a) of that Act may deduct the fair market value of a replaced motor vehicle that has been leased for longer than 180 days and is titled to another person if:

(1) either person:

(A) holds a beneficial ownership interest in the other person of at least 80 percent; or

(B) acquires all of its vehicles exclusively from franchised dealers whose franchisor shares common ownership with the other person; and

(2) the replaced motor vehicle is offered for sale.

SECTION 2.31. Section 152.041, Tax Code, is amended by adding Subsection (e) to read as follows:

(e) If a motor vehicle title applicant has paid the tax to the seller who is required by this chapter to collect the tax and the seller has failed to remit the tax to the county tax assessor-collector, the tax assessor-collector may accept application for title to the motor vehicle without the payment of additional tax by the applicant. Before title to the motor vehicle may be issued under these circumstances, the motor vehicle title applicant must present satisfactory documentation to the tax assessor-collector that the tax was paid. The county tax assessor-collector shall notify the comptroller in writing of the seller's failure to remit the tax. The notice must:

(1) be made before the 31st day after the date the application for title is accepted;

(2) contain the name and address of the seller; and

(3) include any documentation of the payment of the tax provided to the county tax assessor-collector by the motor vehicle title applicant.

SECTION 2.32. Sections 153.117(a), (b), (d), and (h), Tax Code, are amended to read as follows:

(a) A distributor shall keep a record showing the number of gallons of:

(1) all gasoline inventories on hand at the first of each month;

(2) all gasoline refined, compounded, or blended;

(3) all gasoline purchased or received, showing the name of the seller and date of each purchase or receipt;

(4) all gasoline sold, distributed, or used, showing the name of the purchaser and the date of the sale or use; and

(5) all gasoline lost by fire, theft, or [~~other~~] accident.

(b) A dealer shall keep a record showing the number of gallons of:

(1) gasoline inventories on hand at the first of each month;

(2) all gasoline purchased or received, showing the name of the seller and the date of each purchase or receipt;

(3) all gasoline sold or used, showing the date of the sale or use; and

(4) all gasoline lost by fire, theft, or [~~other~~] accident.

(d) An aviation fuel dealer shall keep a record showing the number of gallons of:

(1) all gasoline inventories on hand at the first of each month;

(2) all gasoline purchased or received, showing the name of the seller and date of each purchase or receipt;

(3) all gasoline sold or used in aircraft or aircraft servicing equipment; and

(4) all gasoline lost by fire, theft, or [~~other~~] accident.

(h) A gasoline jobber shall keep a record showing the number of gallons of:

(1) all gasoline inventories on hand at the first of each month;

(2) all gasoline purchased or received, showing the name of the seller and date of each purchase or receipt;

(3) all gasoline sold, distributed, or used, showing the name of the purchaser and the date of the sale or use; and

(4) all gasoline lost by fire, theft, or [~~other~~] accident.

SECTION 2.33. Sections 153.119(a) and (e), Tax Code, are amended to read as follows:

(a) A person who exports, sells to the federal government, to a public school district in this state, or to a commercial transportation company for exclusive use in providing public school transportation services to a school district under Section 34.008, Education Code, without having added the amount of the tax imposed by this chapter to his selling price, loses by fire, theft, or [~~other~~] accident, or uses gasoline for the purpose of operating or propelling a motorboat, tractor used for agricultural purposes, or stationary engine, or for another purpose except in a vehicle operated or intended to be operated on the public highways of this state, and who has paid the tax imposed on gasoline by this chapter either directly or indirectly is, when the person has complied with the invoice and filing provisions of this section and the rules of the comptroller, entitled to reimbursement of the tax paid by him, less a filing fee and any amount allowed distributors[~~, wholesalers or jobbers, dealers, or others~~] under Section 153.105(e) [~~153.105(c)~~] of this code. A public school district that has paid the tax imposed under this chapter on gasoline used by the district or a commercial transportation company that has paid the tax imposed under this chapter on gasoline used by the company exclusively to provide public school transportation services to a school district under Section 34.008, Education Code, is entitled to reimbursement of the amount of the tax paid in the same manner and subject to the same procedures as other exempted users.

(e) A person who exports or loses by fire, theft, or [~~other~~] accident 100

or more gallons of gasoline on which the tax has been paid, or sells gasoline in any quantity to the United States government for the exclusive use of that government on which the tax has been paid, may file a claim for a refund of the net tax paid to the state in the manner provided by this chapter or as the comptroller may direct.

SECTION 2.34. Section 153.121(a), Tax Code, is amended to read as follows:

(a) Except as provided by this section, a claim for a refund must be filed with the comptroller within one year after the first day of the calendar month following the purchase, use, delivery, export, or loss by fire, theft, or [~~other~~] accident of gasoline, whichever period expires latest.

SECTION 2.35. Section 153.206, Tax Code, is amended by adding Subsection (j) to read as follows:

(j) In each subsequent sale of diesel fuel on which the tax has been collected, the amount of the tax shall be added to the selling price so that the tax is paid ultimately by the person using or consuming the diesel fuel for the purpose of propelling a vehicle on the public highways of this state.

SECTION 2.36. Sections 153.219(a), (b), (c), (d), and (i), Tax Code, are amended to read as follows:

(a) A supplier shall keep a record showing the number of gallons of:

(1) all diesel fuel inventories on hand at the first of each month;

(2) all diesel fuel refined, compounded, or blended;

(3) all diesel fuel purchased or received, showing the name of the seller, and the date of each purchase or receipt;

(4) all diesel fuel sold, distributed, or used showing the name of the purchaser and the date of sale, distribution, or use; and

(5) all diesel fuel lost by fire, theft, or [~~other~~] accident.

(b) A dealer shall keep a record showing the number of gallons of:

(1) all diesel fuel inventories on hand at the first of each month;

(2) all diesel fuel purchased or received, showing the name of the seller, the date of each purchase or receipt;

(3) all diesel fuel sold, distributed, or used; and

(4) all diesel fuel lost by fire, theft, or [~~other~~] accident.

(c) A bonded user or other user with nonhighway equipment uses who files a claim for a refund shall keep a record showing the number of gallons of:

(1) inventories of all diesel fuel on hand at the first of each month;

(2) all diesel fuel purchased or received, showing the name of the seller and the date of each purchase;

(3) all diesel fuel deliveries into the fuel supply tanks of motor vehicles;

(4) diesel fuel used for other purposes, showing the purpose for which used; and

(5) all diesel fuel lost by fire, theft, or [~~other~~] accident.

(d) An aviation fuel dealer shall keep a record showing the number of gallons of:

(1) all diesel fuel inventories on hand at the first of each month;

(2) all diesel fuel purchased or received, showing the name of the seller and the date of each purchase or receipt;

(3) all diesel fuel sold, distributed, or used in aircraft or aircraft servicing equipment; and

(4) diesel fuel lost by fire, theft, or [~~other~~] accident.

(i) A diesel fuel jobber shall keep a record showing the number of gallons of:

(1) all diesel fuel inventories on hand at the first of each month;

(2) all diesel fuel purchased or received, showing the name of the seller and date of each purchase or receipt;

(3) all diesel fuel sold, distributed, or used, showing the name of the purchaser and the date of the sale or use; and

(4) all diesel fuel lost by fire, theft, or [~~other~~] accident.

SECTION 2.37. Section 153.222(e), Tax Code, is amended to read as follows:

(e) A person who exports or loses by fire, theft, or [~~other~~] accident 100 or more gallons of diesel fuel on which the tax has been paid, or who sells diesel fuel in any quantity to the United States for its exclusive use on which the tax has been paid, may file a claim for a refund of the net tax paid to the state as the comptroller may direct.

SECTION 2.38. Section 153.224(a), Tax Code, is amended to read as follows:

(a) Except as provided by this section, a claim for a refund must be filed with the comptroller within one year after the first day of the calendar month following the purchase, use, delivery, export, or loss by fire, theft, or [~~other~~] accident of diesel fuel, whichever period expires latest.

SECTION 2.39. Sections 154.114(c) and (g), Tax Code, are amended to read as follows:

(c) The comptroller shall deliver [~~mail~~] the written notice by personal service or by [~~certified~~] mail[~~, return receipt requested,~~] to the permit holder's mailing address as it appears on the comptroller's records. Service by mail is complete when the notice is deposited with [~~received, as evidenced by return receipt from~~] the U.S. Postal Service.

(g) If the comptroller suspends or revokes a permit, the comptroller shall provide written notice of the suspension or revocation, within a reasonable time, to each distributor and wholesaler permit holder in the state. A distributor or wholesaler permit holder violates Section 154.1015(a) by selling or distributing cigarettes to a person whose permit has been suspended or revoked only after the distributor or wholesaler permit holder receives written notice of the suspension or revocation from the comptroller.

SECTION 2.40. Section 154.210(a), Tax Code, is amended to read as follows:

(a) A distributor shall deliver to the comptroller, on or before the last [~~15th~~] day of each month, a report for the preceding month.

SECTION 2.41. Section 154.308(b), Tax Code, is amended to read as follows:

(b) On making a deficiency determination, the comptroller shall notify the person by [~~certified~~] mail or personal service[~~, return receipt requested~~]. Service by mail is complete when the notice is deposited with [~~received, as evidenced by return receipt from~~] the U.S. Postal Service.

SECTION 2.42. Sections 154.309(b) and (d), Tax Code, are amended to read as follows:

(b) A written request for redetermination must be filed at the office of the comptroller not later than the 30th [~~15th working~~] day after the date notice of deficiency is issued [~~received~~]. If a written request for redetermination is not filed as required by this subsection, the determination is final.

(d) The comptroller shall give notice of a redetermination hearing by personal service or by [~~certified~~] mail[~~, return receipt requested~~]. Service by mail is complete when the notice is deposited with [~~received, as evidenced by return receipt from~~] the U.S. Postal Service.

SECTION 2.43. Section 155.059(c), Tax Code, is amended to read as follows:

(c) The comptroller shall deliver [~~mail~~] the written notice by personal service or by [~~certified~~] mail[~~, return receipt requested,~~] to the permit holder's mailing address as it appears in the comptroller's records. Service by mail is complete when the notice is deposited with [~~received, as evidenced by the return receipt from~~] the United States Postal Service.

SECTION 2.44. Section 155.103(b), Tax Code, is amended to read as follows:

(b) A manufacturer who sells tobacco products to a permit holder in this state shall file with the comptroller, on or before the last [~~15th~~] day of each month, a report showing the information listed in Subsection (a) for the previous month.

SECTION 2.45. Section 155.111(a), Tax Code, is amended to read as follows:

(a) A distributor shall file with the comptroller on or before the last [~~30th~~] day of each month, a report for the preceding month.

SECTION 2.46. Section 155.185(b), Tax Code, is amended to read as follows:

(b) On making a deficiency determination, the comptroller shall notify the person by personal service or by [~~certified~~] mail[~~, return receipt requested~~]. Service by mail is complete when the notice is deposited with [~~received, as evidenced by return receipt from~~] the U.S. Postal Service.

SECTION 2.47. Sections 155.186(b) and (d), Tax Code, are amended to read as follows:

(b) A written request for redetermination must be filed at the office of the comptroller not later than the 30th [~~15th working~~] day after the date notice of deficiency is issued [~~received~~]. If a written request for redetermination is not filed as required by this subsection, the determination is final.

(d) The comptroller shall give notice of a redetermination hearing by personal service or by [~~certified~~] mail[~~, return receipt requested~~]. Service by mail is complete when the notice is deposited with [~~received, as evidenced by return receipt from~~] the U.S. Postal Service.

SECTION 2.48. 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, an 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 under any subdivision of Section 61.003, Education Code.

SECTION 2.49. Sections 156.103(a), (b), (c), and (d), Tax Code, are amended to read as follows:

(a) This [~~Subject to this section, this~~] chapter does not impose a tax on:

(1) the United States;

(2) a governmental entity of the United States[~~, this state, or an agency, institution, board, or commission of this state other than an institution of higher education;~~

[~~(2) an officer or employee of a state governmental entity described by Subdivision (1) when traveling on or otherwise engaged in the course of official duties for the governmental entity~~]; or

(3) an officer or employee of a governmental entity of the United States when traveling on or otherwise engaged in the course of official duties for the governmental entity [~~if the governmental entity directly pays to the hotel the price for the room~~].

(b) This state, or an agency, institution, board, or commission of this state other than an institution of higher education [~~A governmental entity otherwise excepted under this section~~] shall pay the tax imposed by this chapter and is entitled to a refund of the amount of tax paid in accordance with Section 156.154.

(c) A state officer or employee of a state governmental entity described by Subsection (b) [~~(a)(2)~~] who is entitled to reimbursement for the cost of lodging and for whom a special provision or exception to the general rate of reimbursement under the General Appropriations Act is not applicable shall pay the tax imposed by [~~under~~] this chapter [~~as if it were imposed by this chapter~~]. The state governmental entity with whom the person is associated is entitled under Section 156.154 to a refund of the tax paid.

(d) A state officer or employee of a state governmental entity described by Subsection (b) [~~(a)(2)~~] for whom a special provision or exception to the general rate of reimbursement under the General Appropriations Act applies and who is provided with photo identification verifying the identity and exempt status of the person is not required to pay the tax and is not entitled to a refund. The photo identification of a state officer or employee described by this section may be modified for the purposes of this section.

SECTION 2.50. Section 171.063, Tax Code, is amended by amending Subsection (a) and adding Subsection (h) to read as follows:

(a) The following corporations are exempt from the franchise tax:

(1) a nonprofit corporation exempted from the federal income tax under Section 501(c)(3), (4), (5), (6), (7), (8), (10), or (19), Internal Revenue Code which in the case of a nonprofit hospital means a hospital providing community benefits that include charity care and government-sponsored indigent health care [~~community benefits~~] as set forth in Subchapter D,

Chapter 311, Health and Safety Code; [~~Paragraph (A), (B), (C), (D), (E), (F), or (G):~~

[~~(A) charity care and government-sponsored indigent health care are provided at a level which is reasonable in relation to the community needs, as determined through the community needs assessment, the available resources of the hospital or hospital system, and the tax-exempt benefits received by the hospital or hospital system;~~

[~~(B) charity care and government-sponsored indigent health care are provided in an amount equal to at least four percent of the hospital's or hospital system's net patient revenue;~~

[~~(C) charity care and government-sponsored indigent health care are provided in an amount equal to at least 100 percent of the hospital's or hospital system's tax-exempt benefits, excluding federal income tax;~~

[~~(D) for tax periods beginning before January 1, 1996, charity care and community benefits are provided in a combined amount equal to at least five percent of the hospital's net patient revenue, provided that charity care and government-sponsored indigent health care are provided in an amount equal to at least three percent of net patient revenue;~~

[~~(E) for tax periods beginning after December 31, 1995, charity care and community benefits are provided in a combined amount equal to at least five percent of the hospital's or hospital system's net patient revenue, provided that charity care and government-sponsored indigent health care are provided in an amount equal to at least four percent of net patient revenue;~~

[~~(F) a nonprofit hospital that has been designated as a disproportionate share hospital under the state Medicaid program in the current year or in either of the previous two fiscal years is considered to have provided a reasonable amount of charity care and government-sponsored indigent health care and is considered in compliance with the standards provided by this subsection; or~~

[~~(G) a hospital operated on a nonprofit basis that is located in a county with a population of less than 50,000 and in which the entire county or the population of the entire county has been designated as a health professionals shortage area is considered in compliance with the standards provided by this subsection;~~]

(2) a corporation exempted under Section 501(c)(2) or (25), Internal Revenue Code, if the corporation or corporations for which it holds title to property is either exempt from or not subject to the franchise tax; and

(3) a corporation exempted from federal income tax under Section 501(c)(16), Internal Revenue Code[~~; and~~

[~~(4) a nonprofit corporation exempted from the federal income tax under Section 501(c)(3), Internal Revenue Code, that does not receive any payment for providing health care services to inpatients or outpatients from any source including but not limited to the patient or person legally obligated to support the patient, third-party payors, Medicare, Medicaid, or any other state or local indigent care program. Payment for providing health care services does not include charitable donations, legacies, bequests, or grants or payments for research.~~

[~~For purposes of satisfying Paragraph (E) of Subdivision (1), a hospital or hospital system may not change its existing fiscal year unless the hospital or hospital system changes its ownership or corporate structure as a result of a sale or merger.~~

[~~For purposes of this subsection, a hospital that satisfies Paragraph (A), (F), or (G) of Subdivision (1) shall be excluded in determining a hospital system's compliance with the standards provided by Paragraph (B), (C), (D), or (E) of Subdivision (1).~~

[~~For purposes of this subsection, the terms "charity care," "government-sponsored indigent health care," "health care organization," "hospital system," "net patient revenue," "nonprofit hospital," and "tax-exempt benefits" have the meanings set forth in Sections 311.031 and 311.042, Health and Safety Code. A determination of the amount of community benefits and charity care and government-sponsored indigent health care provided by a hospital or hospital system and the hospital's or hospital system's compliance with the requirements of Section 311.045, Health and Safety Code, shall be based on the most recently completed and audited prior fiscal year of the hospital or hospital system.~~

[~~A requirement that a nonprofit hospital provide charity care and community benefits under this subsection may be satisfied by a donation of money to the Texas Healthy Kids Corporation established by Chapter 109, Health and Safety Code, provided that:~~

[~~(1) the money is donated to be used for a purpose described by Section 109.033(c), Health and Safety Code; and~~

[~~(2) not more than 10 percent of the charity care required under any provision of this subsection may be satisfied by the donation.~~

[~~The providing of charity care and government-sponsored indigent health care in accordance with Paragraph (A) of Subdivision (1) shall be guided by the prudent business judgment of the hospital which will ultimately determine the appropriate level of charity care and government-sponsored indigent health care based on the community needs, the available resources of the hospital, the tax-exempt benefits received by the hospital, and other factors that may be unique to the hospital, such as the hospital's volume of Medicare and Medicaid patients. These criteria shall not be determinative factors, but shall be guidelines contributing to the hospital's decision along with other factors which may be unique to the hospital. The formulas contained in Paragraphs (B), (C), (D), and (E) of Subdivision (1) shall also not be considered determinative of a reasonable amount of charity care and government-sponsored indigent health care.~~

[~~The requirements of this subsection shall not apply to the extent a hospital or hospital system demonstrates that reductions in the amount of community benefits, charity care, and government-sponsored indigent health care are necessary to maintain financial reserves at a level required by a bond covenant, are necessary to prevent the hospital or hospital system from endangering its ability to continue operations, or if the hospital, as a result of a natural or other disaster, is required substantially to curtail its operations.~~

[~~In any fiscal year that a hospital or hospital system, through unintended miscalculation, fails to meet any of the standards in Subdivision (1), the~~

~~hospital or hospital system shall not lose its tax-exempt status without the opportunity to cure the miscalculation in the fiscal year following the fiscal year the failure is discovered by both meeting one of the standards and providing an additional amount of charity care and government-sponsored indigent health care that is equal to the shortfall from the previous fiscal year. A hospital or hospital system may apply this provision only once every five years~~].

(h) A requirement that a nonprofit hospital provide charity care and community benefits under Subsection (a)(1) may be satisfied by a donation of money to the Texas Healthy Kids Corporation established by Chapter 109, Health and Safety Code, if:

(1) the money is donated to be used for a purpose described by Section 109.033(c), Health and Safety Code; and

(2) not more than 10 percent of the charity care required under any provision of Section 311.045, Health and Safety Code, may be satisfied by the donation.

SECTION 2.51. Sections 171.063(c) and (d), Tax Code, are amended to read as follows:

(c) A corporation's exemption under Subsection (b) of this section is established by furnishing the comptroller with a copy of the Internal Revenue Service's letter of exemption issued to the corporation. [~~The copy of the letter must be filed with the comptroller within 15 months after the day that is the last day of a calendar month and that is nearest to the date of the corporation's charter or certificate of authority.~~]

(d) If the Internal Revenue Service has not timely issued to a corporation a letter of exemption, evidence establishing the corporation's provisional exemption under this section is sufficient if the corporation timely files with the comptroller [~~within the 15-month period established by Subsection (c) of this section~~] evidence that the corporation has applied in good faith for the federal tax exemption. The evidence must be filed not later than the 15th month after the day that is the last day of a calendar month and that is nearest to the date of the corporation's charter or certificate of authority.

SECTION 2.52. The heading of Subchapter C, Chapter 171, Tax Code, is amended to read as follows:

SUBCHAPTER C. DETERMINATION OF TAXABLE CAPITAL AND TAXABLE EARNED SURPLUS; ALLOCATION AND APPORTIONMENT

SECTION 2.53. The heading of Section 171.1015, Tax Code, is amended to read as follows:

Sec. 171.1015. REDUCTION OF TAXABLE CAPITAL OR TAXABLE EARNED SURPLUS FOR INVESTMENT IN AN ENTERPRISE ZONE.

SECTION 2.54. Section 171.1015(f)(1), Tax Code, is amended to read as follows:

(1) "Enterprise project" means a person designated by the Texas Department of Economic Development [~~Commerce~~] as an enterprise project under Chapter 2303, Government Code.

SECTION 2.55. Section 171.1015(g), Tax Code, is amended to read as follows:

(g) Only qualified businesses that have been certified as eligible for a tax deduction under this section by the Texas Department of Economic Development [~~Commerce~~] to the comptroller and the Legislative Budget Board are entitled to the tax deduction.

SECTION 2.56. The heading of Section 171.1016, Tax Code, is amended to read as follows:

Sec. 171.1016. REDUCTION OF TAXABLE CAPITAL OR TAXABLE EARNED SURPLUS FOR INVESTMENT IN A READJUSTMENT ZONE.

SECTION 2.57. Section 171.1016(f)(1), Tax Code, is amended to read as follows:

(1) "Defense readjustment project" means a person designated by the Texas Department of Economic Development [~~Commerce~~] as a defense readjustment project under Chapter 2310, Government Code.

SECTION 2.58. Section 171.1016(g), Tax Code, is amended to read as follows:

(g) Only qualified businesses that have been certified as eligible for a tax deduction under this section by the Texas Department of Economic Development [~~Commerce~~] to the comptroller and the Legislative Budget Board are entitled to the tax deduction.

SECTION 2.59. The heading of Section 171.107, Tax Code, is amended to read as follows:

Sec. 171.107. DEDUCTION OF COST OF SOLAR ENERGY DEVICE FROM TAXABLE CAPITAL OR TAXABLE EARNED SURPLUS APPORTIONED TO THIS STATE.

SECTION 2.60. Section 171.110, Tax Code, is amended by adding Subsections (i) and (j) to read as follows:

(i) For purposes of this section, any person designated as an officer is presumed to be an officer if that person:

(1) holds an office created by the board of directors or under the corporate charter or bylaws; and

(2) has legal authority to bind the corporation with third parties by executing contracts or other legal documents.

(j) A corporation may rebut the presumption described in Subsection (i) that a person is an officer if it conclusively shows, through the person's job description or other documentation, that the person does not participate or have authority to participate in significant policy making aspects of the corporate operations.

SECTION 2.61. Section 171.501(a), Tax Code, is amended to read as follows:

(a) A corporation that has been certified a qualified business as provided by Chapter 2303, Government Code may apply for and be granted a refund of franchise tax paid with an initial or annual report if the governing body or bodies certify to the Texas Department of Economic Development [~~Commerce~~] that the business has created 10 or more new jobs in its enterprise zone held by qualified employees during the calendar year that contains the end of the accounting period on which the report is based. The Texas Department of Economic Development [~~Commerce~~] shall certify eligibility for any refund to the comptroller.

SECTION 2.62. The heading of Subchapter C, Chapter 183, Tax Code, is amended to read as follows:

SUBCHAPTER C. MIXED BEVERAGE TAX CLEARANCE [~~FUND~~]

SECTION 2.63. The heading of Section 183.051, Tax Code, is amended to read as follows:

Sec. 183.051. MIXED BEVERAGE TAX CLEARANCE [~~FUND~~].

SECTION 2.64. Section 183.051(b), Tax Code, is amended to read as follows:

(b) The comptroller shall issue to each county described in Subsection (a) a warrant drawn on the general revenue [~~mixed beverage tax clearance~~] fund in an [~~the~~] amount appropriated by the legislature that may not be greater than [~~of~~] 10.7143 percent of receipts from permittees within the county during the quarter and shall issue to each incorporated municipality described in Subsection (a) a warrant drawn on that fund in an [~~the~~] amount appropriated by the legislature that may not be greater than [~~of~~] 10.7143 percent of receipts from permittees within the incorporated municipality during the quarter. [~~The remainder of the receipts for the quarter and all interest earned on that fund shall be transferred to the general revenue fund.~~]

SECTION 2.65. Section 191.085(b), Tax Code, is amended to read as follows:

(b) The person shall keep the record open for four [~~two~~] years for inspection by the comptroller or the attorney general.

SECTION 2.66. Section 203.051(a), Tax Code, is amended to read as follows:

(a) A producer shall keep a complete record of all sulphur he produces in this state. A producer may destroy a record required by this section four [~~three~~] years after the last entry in the record.

SECTION 2.67. Section 321.102, Tax Code, is amended by adding Subsections (e), (f), and (g) to read as follows:

(e) If as a result of the imposition or increase in a sales and use tax by a municipality in which there is located all or part of a local governmental entity that has adopted a sales and use tax or as a result of the annexation by a municipality of all or part of the territory in a local governmental entity that has adopted a sales and use tax the overlapping local sales and use taxes in the area will exceed two percent, the entity's sales and use tax is automatically reduced in that area to a rate that when added to the combined rate of local sales and use taxes will equal two percent.

(f) If an entity's rate is reduced in accordance with Subsection (e), the comptroller shall withhold from the municipality's monthly sales and use tax allocation an amount equal to the amount that would have been collected by the entity had the municipality not imposed or increased its sales and use tax or annexed the area in the entity less amounts that the entity collects following the municipality's levy of or increase in its sales and use tax or annexation of the area in the entity. The comptroller shall withhold and pay the amount withheld to the entity under policies or procedures that the comptroller considers reasonable.

(g) A transit authority is not a local governmental entity for the purposes of Subsections (e) and (f).

SECTION 2.68. Section 322.302, Tax Code, is amended to read as follows:

Sec. 322.302. DISTRIBUTION OF TRUST FUNDS. At [~~(a) Except as provided by Subsection (b) of this section, at~~] least quarterly [~~twice~~] during each state fiscal year and as often as feasible, the comptroller shall send to the person at each taxing entity who performs the function of entity treasurer, payable to the taxing entity, the entity's share of the taxes collected by the comptroller under this chapter.

[~~(b) The comptroller shall make payments required by Subsection (a) of this section to entities created under Chapter 451 or 452, Transportation Code, quarterly each fiscal year as soon as practicable after the end of each quarter.~~]

SECTION 2.69. Section 323.102(c), Tax Code, is amended to read as follows:

(c) A tax imposed under Section 323.105 of this code or Chapter 326, Local Government Code, takes effect on the first day of the first calendar quarter after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives a notice of the action as required by Section 323.405(b).

SECTION 2.70. Section 323.105(e), Tax Code, is amended to read as follows:

(e) The comptroller shall remit to the county amounts collected at the rate imposed under this section as part of the regular allocation of county tax revenue collected by the comptroller if the district is composed of the entire county. The comptroller [~~county~~] shall, if the district is composed of an area less than the entire county, remit that amount to the district. Retailers may not be required to use the allocation and reporting procedures in the collection of taxes under this section different from the procedures that retailers use in the collection of other sales and use taxes under this chapter. An item, transaction, or service that is taxable in a county under a sales or use tax authorized by another section of this chapter is taxable under this section. An item, transaction, or service that is not taxable in a county under a sales or use tax authorized by another section of this chapter is not taxable under this section.

SECTION 2.71. Section 351.001, Tax Code, is amended by adding Subdivision (10) to read as follows:

(10) "Revenue" includes any interest derived from the revenue.

SECTION 2.72. Section 351.006, Tax Code, is amended to read as follows:

Sec. 351.006. EXEMPTION. (a) A United States governmental entity described in Section 156.103(a) is exempt from the payment of tax authorized by this chapter [~~excepted from the tax imposed by Chapter 156 under Section 156.103(a)(1) or (a)(3) shall pay the tax imposed by this chapter but is entitled to a refund of the tax paid~~].

(b) A state governmental entity described in Section 156.103(b) shall pay the tax imposed by this chapter but is entitled to a refund of the tax paid.

(c) A person who is described by Section 156.103(d) is exempt from the payment of the tax authorized by this chapter.

(d) [~~(c)~~] A person who is described by Section 156.103(c) shall pay the

tax imposed by this chapter but the state governmental entity with whom the person is associated is entitled to a refund of the tax paid.

(e) [~~(d)~~] To receive a refund of tax paid under this chapter, the governmental entity entitled to the refund must file a refund claim on a form provided by the municipality and containing the information required by the municipality. The comptroller by rule shall prescribe the form that must be used and the information that must be provided.

(f) [~~(e)~~] A governmental entity may file a refund claim with the municipality under this chapter only for each calendar quarter for all reimbursements accrued during that quarter. The municipality may adopt an ordinance to enforce this section.

SECTION 2.73. Subchapter B, Chapter 351, Tax Code, is amended by adding Section 351.107 to read as follows:

Sec. 351.107. RECORDS. A municipality shall maintain a record that accurately identifies the receipt and expenditure of all revenue derived from the tax imposed under this chapter.

SECTION 2.74. Section 352.007, Tax Code, is amended to read as follows:

Sec. 352.007. EXEMPTION. (a) A United States governmental entity described in Section 156.103(a) is exempt from the payment of tax authorized by this chapter [~~excepted from the tax imposed by Chapter 156 under Section 156.103(a)(1) or (a)(3) shall pay the tax imposed by this chapter but is entitled to a refund of the tax paid~~].

(b) A state governmental entity subject to the tax imposed by Chapter 156 under Section 156.103(b) shall pay the tax imposed by this chapter but is entitled to a refund of the tax paid.

(c) A person who is described by Section 156.103(d) is exempt from the payment of the tax authorized by this chapter.

(d) [~~(c)~~] A person who is described by Section 156.103(c) shall pay the tax imposed by this chapter but the state governmental entity with whom the person is associated is entitled to a refund of the tax paid.

(e) [~~(d)~~] To receive a refund of a tax paid under this chapter, the governmental entity entitled to the refund must file a refund claim on a form provided by the county and containing the information required by the county. The comptroller by rule shall prescribe the form that must be used and the information that must be provided.

(f) [~~(e)~~] A governmental entity may file a refund claim with the county under this chapter only for each calendar quarter for all reimbursements accrued during that quarter. The county may adopt a resolution to enforce this section.

SECTION 2.75. Section 4B(e), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), as amended by Section 3, Chapter 1022, and Section 12, Chapter 1031, Acts of the 73rd Legislature, Regular Session, 1993, is reenacted to read as follows:

(e) The rate of a tax adopted under this section must be one-eighth, one-fourth, three-eighths, or one-half of one percent. The ballot proposition at the election held to adopt the tax must specify the rate of the tax to be adopted. A corporation that holds an election to reduce a tax imposed under

Section 4A of this Act may in a separate proposition on the same ballot adopt a tax under this section. If an eligible city adopts the tax, a tax is imposed on the receipts from the sale at retail of taxable items within the eligible city at the rate approved at the election. There is also imposed an excise tax on the use, storage, or other consumption within the eligible city of tangible personal property purchased, leased, or rented from a retailer during the period that the tax is effective within the eligible city. The rate of the excise tax is the same as the rate of the sales tax portion of the tax and is applied to the sale price of the tangible personal property.

ARTICLE 3. APPROPRIATIONS AND PROVISIONS RELATED TO APPROPRIATIONS

SECTION 3.01. (a) In addition to other amounts appropriated by the 76th Legislature, Regular Session, 1999, for the biennium beginning September 1, 1999, and subject to the restrictions provided under Articles II and IX, House Bill No. 1, Acts of the 76th Legislature, Regular Session, 1999 (the General Appropriations Act), specifically including Rider 38, page II-66, House Bill No. 1, the Texas Department of Human Services is appropriated $12 million from the general revenue fund for fiscal year 2000 for reimbursement expenses related to increases in reimbursement rates for nursing homes under the medical assistance program and $12 million from the general revenue fund for fiscal year 2001 for the same purpose. Any unexpended balance of the appropriation made by this section for fiscal year 2000 is reappropriated to the department for fiscal year 2001 for the same purpose.

(b) The Texas Department of Human Services is authorized to transfer the appropriations made by this section to the appropriate agency or the appropriate strategy item.

(c) The appropriations made by this section are contingent on the comptroller's providing of notice to the governor and the Legislative Budget Board that the comptroller has made a finding, based on a revenue estimate made before or after the adjournment sine die of the 76th Legislature, Regular Session, that sufficient revenue is estimated to be available from the general revenue fund to provide for the appropriations made by this section.

SECTION 3.02. (a) In addition to other amounts appropriated by the 76th Legislature, Regular Session, 1999, for the biennium beginning September 1, 1999, and subject to the restrictions provided under Articles II and IX, House Bill No. 1, Acts of the 76th Legislature, Regular Session, 1999 (the General Appropriations Act), the Texas Department of Human Services is appropriated $6.6 million from the general revenue fund for fiscal year 2000 for expenses related to increases in the personal needs allowance provided under Section 32.024, Human Resources Code, for a person who receives medical assistance and is a resident of a convalescent or nursing home or related institution licensed under Chapter 242, Health and Safety Code, a personal care facility, an ICF-MR facility, or another similar long-term care facility and $6.6 million from the general revenue fund for fiscal year 2001 for the same purpose. Any unexpended balance of the appropriation made by this section for fiscal year 2000 is reappropriated to the department for fiscal year 2001 for the same purpose.

(b) The Texas Department of Human Services is authorized to transfer the appropriations made by this section to the appropriate agency or the appropriate strategy item.

(c) The appropriations made by this section are contingent on the comptroller's providing of notice to the governor and the Legislative Budget Board that the comptroller has made a finding, based on a revenue estimate made before or after the adjournment sine die of the 76th Legislature, Regular Session, that sufficient revenue is estimated to be available from the general revenue fund to provide for the appropriations made by this section.

SECTION 3.03. (a) This section applies only to an Act of the 76th Legislature, Regular Session, that contains a provision stating that the Act, or a provision of the Act, takes effect only if a specific appropriation for the implementation of the Act is provided in House Bill No. 1, Acts of the 76th Legislature, Regular Session, 1999 (the General Appropriations Act).

(b) In accordance with the terms of the provision described by Subsection (a) of this section, the following Acts take effect:

(1) House Bill Nos. 424, 713, 714, 820, 1172, 1188, 1341, 1652, 1833, 1939, 2085, 2145, 2202, 2307, 2573, 2641, 2719, 2992, 3174, 3504, 3517, and 3778; and

(2) Senate Bill Nos. 526, 565, 666, 708, 1287, 1423, 1651, and 1690.

(c) In accordance with the terms of the provision described by Subsection (a) of this section, the following Acts do not take effect:

(1) House Bill Nos. 1933 and 2148; and

(2) Senate Bill Nos. 313, 840, and 1650.

(d) The following Acts take effect notwithstanding the provision described by Subsection (a) of this section:

(1) House Bill Nos. 64, 153, 628, 676, 1018, 1140, 1223, 1444, 1860, 2631, 2815, 2896, 2978, 3050, 3079, 3304, and 3757; and

(2) Senate Bill Nos. 229, 913 and 1613.

(e) The Acts identified in this section take effect, or do not take effect, as provided by this section, notwithstanding the provision described by Subsection (a) of this section.

(f) If a provision described by Subsection (a) of this section is contained in a bill that is not listed in Subsection (b), (c), or (d) of this section, the provision is ineffective, and the bill takes effect in accordance with its terms notwithstanding that provision, regardless of the relative dates of enactment.

ARTICLE 4. MISCELLANEOUS PROVISIONS

SECTION 4.01. The following are repealed:

(1) Section 66.03, Education Code;

(2) Sections 481.0841, 608.004, and 608.012, Government Code; and

(3) Sections 151.318(g) and (p) and 152.062(d), Tax Code.

SECTION 4.02. (a) The comptroller may adopt rules and take other actions before January 1, 2000, that the comptroller considers necessary or appropriate to prepare for Sections 1.01, 1.02, 1.07, 1.15-1.17, 1.27, and 1.29 of this Act to take effect. This subsection does not authorize the comptroller to adopt any rule or take any action that Sections 1.01, 1.02, 1.07, 1.15-1.17,

1.27, and 1.29 of this Act would not authorize the comptroller to adopt or take if those sections took effect immediately.

(b) A state agency may take before January 1, 2000, the actions that the agency considers necessary or appropriate to prepare for Sections 1.01, 1.02, 1.07, 1.15-1.17, 1.27, and 1.29 of this Act to take effect. This subsection does not authorize a state agency to take any action that Sections 1.01, 1.02, 1.07, 1.15-1.17, 1.27, and 1.29 of this Act would not authorize the agency to take if those sections took effect immediately. In this subsection, "state agency" does not include the comptroller.

SECTION 4.03. Section 51.703, Government Code, as added by this Act, applies only to filing fees for civil cases filed and to costs on convictions occurring on or after the effective date of this Act.

SECTION 4.04. The repeal of Section 608.004, Government Code, by Section 4.01(2) of this Act is intended only to repeal a redundant law. The repeal does not imply that on and after the effective date of Section 4.01 of this Act:

(1) the amount an officer or employee authorizes to be deducted from the officer's or employee's compensation for the purchase of savings bonds may not actually be withheld and deducted as authorized by Section 608.003, Government Code; or

(2) the amount of an officer's or employee's compensation remaining after all authorized deductions have been made may not be paid to the officer or employee.

SECTION 4.05. The changes in law made by Sections 1.30 and 1.31 of this Act apply only to a major consulting services contract that is entered into, renewed, amended, or extended on and after the effective date of those sections. A major consulting services contract that is entered into, renewed, amended, or extended before that date is governed by the law in effect on the date the contract is entered into, renewed, amended, or extended, and the former law is continued in effect for that purpose.

SECTION 4.06. The comptroller may adopt rules and take other actions before September 1, 1999, that the comptroller considers necessary or appropriate to prepare for Sections 1.13, 1.30, 1.31, and 4.05 of this Act to take effect. This section does not authorize the comptroller to adopt any rule or take any action that Sections 1.13, 1.30, 1.31, and 4.05 of this Act would not authorize the comptroller to adopt or take if those sections took effect immediately.

SECTION 4.07. A tax to which Section 2.69 of this Act applies that is not being collected on the effective date of this Act and that was adopted at an election held before January 1, 1999, takes effect on the first day of the first calendar quarter that begins after the effective date of this Act.

SECTION 4.08. Each change in law made to the following provisions by this Act is a clarification of existing law and does not imply that existing law may be construed as inconsistent with the law as amended by this Act:

(1) Section 102.075, Code of Criminal Procedure;

(2) Section 9, Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code);

(3) Section 11, Texas Public School Employees Group Insurance Act (Article 3.50-4, Insurance Code);

(4) Section 326.029, Local Government Code;

(5) Section 326.092, Local Government Code;

(6) Section 151.317, Tax Code;

(7) Section 151.318, Tax Code;

(8) Section 151.3185, Tax Code;

(9) Section 151.350(d), Tax Code;

(10) Section 152.002, Tax Code;

(11) Section 152.041, Tax Code;

(12) Section 153.117, Tax Code;

(13) Section 153.119, Tax Code;

(14) Section 153.206, Tax Code;

(15) Section 153.219, Tax Code;

(16) Section 171.063, Tax Code;

(17) the heading of Subchapter C, Chapter 171, Tax Code;

(18) the headings of Sections 171.1015, 171.1016, and 171.107, Tax Code;

(19) Section 171.110, Tax Code;

(20) Section 191.085, Tax Code; and

(21) Section 203.051, Tax Code.

SECTION 4.09. The comptroller of public accounts may adopt rules and take other actions before October 1, 1999, as the comptroller deems necessary or advisable to prepare for the taking effect of Article 2 of this Act.

SECTION 4.10. (a) Except as provided by Subsections (b), (c), and (d) of this section, Article 2 of this Act takes effect October 1, 1999.

(b) Section 2.05 of this Act takes effect January 1, 2000, and applies to reporting periods beginning on or after that date.

(c) Sections 2.50 through 2.61 of this Act take effect January 1, 2000, and apply to a report originally due on or after that date.

(d) Sections 2.67, 2.69, 4.07, and 4.09 of this Act take effect on the earliest date on which they may take effect under Section 39, Article III, Texas Constitution.

SECTION 4.11. Section 351.107, Tax Code, as added by this Act, applies only to an expenditure made on or after the effective date of Article 2 of this Act, without regard to whether the expenditure is from revenue collected under Chapter 351, Tax Code, before, on, or after that date. An expenditure made before the effective date of Article 2 of this Act is governed by the law applicable to the action immediately before the effective date of that article, and that law is continued in effect for that purpose.

SECTION 4.12. (a) This Act takes effect immediately except that:

(1) Sections 1.13, 1.30, 1.31, and 4.05 of this Act take effect September 1, 1999;

(2) Sections 1.01, 1.02, 1.07, 1.15-1.17, 1.27, and 1.29 of this Act take effect January 1, 2000;

(3) Sections 1.04, 1.06, and 4.01(1) of this Act take effect only if the constitutional amendment proposed by H.J.R. No. 58, 76th Legislature, Regular Session, 1999, is approved by the voters; and

(4) Article 2 of this Act takes effect as provided by Section 4.10 of this Act.

(b) If H.J.R. No. 58, 76th Legislature, Regular Session, 1999, is not approved by the voters, Sections 1.04, 1.06, and 4.01(1) of this Act do not take effect.

SECTION 4.13. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Representative McCall moved to adopt the conference committee report on **HB 3211**.

A record vote was requested.

The motion prevailed by (Record 536): 145 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; Corte; Counts; Crabb; Craddick; Cuellar; Culberson; 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; 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.

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

Absent, Excused — Crownover; Jones, D.

Absent — Danburg.

HB 673 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Carter submitted the following conference committee report on **HB 673**:

Austin, Texas, May 28, 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 673** 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.

Lindsay	Carter
Zaffirini	Naishtat
Shapiro	Luna
Moncrief	Danburg
On the part of the Senate	On the part of the House

HB 673, A bill to be entitled An Act relating to requiring the use of protective helmets for bicycle safety.

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

SECTION 1. Section 758.001, Health and Safety Code, is amended to read as follows:

Sec. 758.001. DEFINITIONS. In this chapter:

(1) "Bicycle" means a human-powered vehicle with two wheels in tandem designed to transport by a pedaling action of a person seated on a saddle seat.

(2) "Department" means the Department of Public Safety.

(3) "Operator" means a person who travels by pedaling on a bicycle seated on a saddle seat.

(4) "Other public right-of-way" means any right-of-way, other than a public roadway or public bicycle path, that is accessible by the public and designed for use by vehicular or pedestrian traffic.

(5) <u>"Protective bicycle helmet" means headgear that meets or exceeds the impact standards for protective bicycle helmets set by the United States Consumer Product Safety Commission, the Snell Memorial Foundation, or an appropriate state agency.</u>

<u>(6)</u> "Public bicycle path" means a right-of-way under the jurisdiction and control of this state or a local political subdivision for use primarily by bicycles or by bicycles and pedestrians.

<u>(7)</u> [~~(6)~~] "Public roadway" means a right-of-way under the jurisdiction and control of this state or a local political subdivision for use primarily by motor vehicles.

[~~(7) "Tricycle" means a three-wheeled human-powered vehicle that is designed to have a seat no more than two feet from the ground and be used as a toy by a child younger than six years of age.~~]

SECTION 2. Section 758.002, Health and Safety Code, is amended by amending Subsection (a) and adding Subsection (h) to read as follows:

(a) The department may establish and administer a statewide bicycle safety education program and may adopt rules to implement the program. The program must include instruction concerning:

(1) the safe handling and use of bicycles;

(2) high risk traffic situations;

(3) bicycle and traffic handling skills;

(4) on-bike training;

(5) correct use of protective bicycle helmets; and

(6) traffic laws and regulations.

(h) The department may encourage communications media to run, print, or otherwise disseminate public service announcements regarding the names and addresses of hospitals and other entities that have volunteered to provide free protective bicycle helmets to children or other members of the public.

SECTION 3. Chapter 758, Health and Safety Code, is amended by adding Sections 758.004, 758.005, and 758.006 to read as follows:

Sec. 758.004. REQUIREMENTS FOR PROTECTIVE BICYCLE HELMET USE. (a) This section applies to the use of a bicycle on a public roadway, public bicycle path, or other public right-of-way that is located in a municipality with a population of 200,000 or more.

(b) A person younger than 15 years of age who is an operator or passenger on a bicycle shall wear a properly fitting protective bicycle helmet fastened securely on the head with the straps or other appropriate fastener of that helmet.

(c) A parent or legal guardian of a person younger than 15 years of age may not knowingly or recklessly permit the person to operate a bicycle or to be a passenger on a bicycle unless the person is wearing a protective bicycle helmet as prescribed by Subsection (b).

(d) In a cause of action in which damages are sought for injuries or death suffered by a person in connection with the person's operation of a bicycle or being a passenger on a bicycle at a time when the person was younger than 15 years of age, the failure of the person or of the parent or legal guardian of the person to comply with this section does not constitute responsibility causing or contributing to the cause of the person's injuries or death for purposes of Chapter 33, Civil Practice and Remedies Code.

Sec. 758.005. SALE OR RENTAL OF BICYCLES. (a) A person regularly engaged in the business of selling bicycles shall provide to each purchaser a written explanation of the requirement under Section 758.004 that a person wear a protective bicycle helmet.

(b) A person may not rent a bicycle to another person unless:

(1) each person younger than 15 years of age who the person renting the bicycle knows will be an operator or passenger on the bicycle possesses a properly fitting protective bicycle helmet at the time the bicycle is rented; or

(2) the rental agreement includes the provision of a properly fitting protective bicycle helmet for each operator or passenger younger than 15 years of age.

(c) A person who sells bicycles is not liable in civil damages for:

(1) the failure to provide the written explanation of the law as required by Subsection (a); or

(2) a bicycle operator's or passenger's failure to wear a protective bicycle helmet.

(d) A person who rents bicycles to another and has fully complied with Subsection (b) is not liable in civil damages for a bicycle operator's or passenger's failure to wear a protective bicycle helmet.

(e) The immunity from civil liability provided in Subsection (c) does not apply to a seller who provides information regarding the requirements under Section 758.004, and such information is false with respect to:

(1) the requirements under Section 758.004(b); or

(2) the existence of Section 758.004 in general.

(f) This section applies only to a person in the business of selling bicycles in a municipality with a population of 250,000 or more.

Sec. 758.006. LOCAL REGULATION. This chapter does not preempt a local regulation of the use of bicycle helmets or affect the authority of a political subdivision to adopt or enforce an ordinance or requirement relating to the use of bicycle helmets if the regulation, ordinance, or requirement is compatible with and equal to or more stringent than this chapter.

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 Carter moved to adopt the conference committee report on **HB 673**.

The motion prevailed without objection. (Clark, Heflin, Keel, and Madden recorded voting no)

REASONS FOR VOTE

This bill represents a case-study in unnecessary governmental attempted regulation.

Keel

The bill would make cities over 200,000 have helmet ordinances even if they have repealed one passed earlier.

Madden

HB 1983 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Bosse submitted the following conference committee report on **HB 1983**:

Austin, Texas, May 29, 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 1983** 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.

Madla Bosse

Sibley	McCall
Haywood	Keel
	Gray
	B. Turner

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

HB 1983, A bill to be entitled An Act relating to the functions of the Advisory Commission on State Emergency Communications and emergency communication districts and to the continuation of the Advisory Commission on State Emergency Communications.

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

SECTION 1. Sections 771.001(1), (4), and (10), Health and Safety Code, are amended to read as follows:

(1) "Commission [~~Advisory commission~~]" means the [~~Advisory~~] Commission on State Emergency Communications.

(4) "Intrastate long distance service provider" means a telecommunications carrier providing intrastate long distance service, as defined by the [~~advisory~~] commission.

(10) "Regional planning commission" means a planning commission established under Chapter 391, Local Government Code.

SECTION 2. The heading of Subchapter B, Chapter 771, Health and Safety Code, is amended to read as follows:

SUBCHAPTER B. [~~ADVISORY~~] COMMISSION ON STATE EMERGENCY COMMUNICATIONS

SECTION 3. Section 771.031, Health and Safety Code, is amended to read as follows:

Sec. 771.031. COMPOSITION OF COMMISSION. (a) The Commission on State Emergency Communications is composed of nine appointed members and three ex officio members as provided by this section.

(b) The following individuals serve as nonvoting ex officio members:

(1) the executive director of the Public Utility Commission of Texas, or an individual designated by the executive director;

(2) the executive director of the General Services Commission, or an individual designated by the executive director; and

(3) the commissioner of public health, or an individual who has responsibility for the poison control network designated by the commissioner.

(c) The [~~Advisory Commission on State Emergency Communications is composed of:~~

[~~(1) eight members appointed by the governor;~~

[~~(2) two members appointed by the~~] lieutenant governor and[~~;~~

[~~(3) two members appointed by~~] the speaker of the house of representatives each shall appoint two members as representatives of the general public.

(d) The governor shall appoint:

(1) one member who serves on the governing body of a regional planning commission;

(2) one member who serves as a director of or is on the governing body of an emergency communication district;

(3) one member who serves on the governing body of a county;

(4) one member who serves on the governing body of a home-rule municipality that operates a 9-1-1 system that is independent of the state's system; and

(5) one member as a representative of the general public.

(e)[~~;~~

[~~(4) the commissioner of public health or the commissioner's designee;~~

[~~(5) the public safety director of the Department of Public Safety or the public safety director's designee;~~

[~~(6) the executive director of the Criminal Justice Policy Council or the executive director's designee; and~~

[~~(7) the executive director of the major association representing regional planning commissions or the executive director's designee.~~

[~~(b) The governor shall appoint one representative from each of the three local exchange carriers that serve the most local access lines in the state, one person who is a member of the governing body of a municipality, one person who is a member of a county commissioners court, and one person who is a director of an emergency communication district described by Section 771.001(3)(B).~~

[~~(c) The major association representing municipal governments shall present to the governor a list of at least three eligible candidates for the position on the advisory commission to be filled by a member of a municipal governing body. The major association representing county governments shall present to the governor a list of at least three eligible candidates for the position on the advisory commission to be filled by a member of a county commissioners court. The governor shall consider those recommendations but is not required to select a person recommended.~~

[~~(d)~~] Appointed members of the [~~advisory~~] commission serve staggered terms of six years, with the terms of one-third of the [~~four~~] members expiring September 1 of each odd-numbered year.

(f) [~~(e)~~] A vacancy in an appointed position on the [~~advisory~~] commission shall be filled in the same manner as the position of the member whose departure created the vacancy.

(g) The governor shall designate an appointed member of the commission as the presiding officer of the commission to serve in that capacity at the pleasure of the governor.

SECTION 4. Subchapter B, Chapter 771, Health and Safety Code, is amended by adding Sections 771.0315 and 771.0316 to read as follows:

Sec. 771.0315. ELIGIBILITY FOR MEMBERSHIP OR TO BE GENERAL COUNSEL. (a) A person is not eligible for appointment under Section 771.031 to represent the general public if the person or the person's spouse:

(1) is registered, certified, or licensed by a regulatory agency in the field of telecommunications;

(2) is employed by or participates in the management of a business entity or other organization receiving money from the commission;

(3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving money from the commission; or

(4) uses or receives a substantial amount of tangible goods, services, or money from the commission other than compensation or reimbursement authorized by law for commission membership, attendance, or expenses.

(b) 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 commission and may not be a commission 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 telecommunications or emergency communications;

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of telecommunications or emergency communications;

(3) the person is an officer, employee, or paid consultant of a Texas association of regional councils; or

(4) the person's spouse is an officer, manager, or paid consultant of a Texas association of regional councils.

(c) A person may not be a member of the commission or act as the general counsel to the commission 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 commission.

(d) Appointments to the commission shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Sec. 771.0316. GROUNDS FOR REMOVAL OF COMMISSION MEMBER. (a) It is a ground for removal from the commission that a member:

(1) does not have at the time of taking office the qualifications required by Section 771.031;

(2) does not maintain during service the qualifications required by Section 771.031;

(3) is ineligible for membership under Section 771.031 or 771.0315;

(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 commission meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the commission.

(b) The validity of an action of the commission is not affected by the fact that it is taken when a ground for removal of a commission 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

commission of the potential ground. The presiding officer shall 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 commission, who shall then notify the governor and the attorney general that a potential ground for removal exists.

SECTION 5. Section 771.032, Health and Safety Code, is amended to read as follows:

Sec. 771.032. APPLICATION OF SUNSET ACT. The [~~Advisory~~] Commission on State Emergency Communications is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the [~~advisory~~] commission is abolished and this chapter expires September 1, 2011 [~~1999~~].

SECTION 6. Section 771.033, Health and Safety Code, is amended to read as follows:

Sec. 771.033. [~~CHAIRMAN;~~] MEETINGS. [~~(a) The advisory commission shall appoint a chairman from among its members at the first meeting of the commission after the biennial appointment of commission members.~~

[~~(b)~~] The [~~advisory~~] commission shall meet in Austin and at other places fixed by the commission at the call of the presiding officer [~~chairman~~].

SECTION 7. Section 771.034, Health and Safety Code, is amended to read as follows:

Sec. 771.034. EXPENSES. The expenses of a member of the [~~advisory~~] commission shall be paid as provided by the General Appropriations Act.

SECTION 8. Section 771.035, Health and Safety Code, is amended to read as follows:

Sec. 771.035. STAFF; PERSONNEL POLICIES. (a) The [~~advisory~~] commission may employ persons as necessary to carry out its functions.

(b) 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.

(c) The policy statement must include:

(1) personnel policies, including policies related to recruitment, evaluation, selection, training, and promotion of personnel, that show the intent of the commission 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 commission's personnel is in accordance with state and federal law and a description of reasonable methods to achieve compliance with state and federal law.

(d) The policy statement must be:

(1) updated annually;

(2) reviewed by the state Commission on Human Rights for compliance with Subsection (c)(1); and

(3) filed with the governor's office.

SECTION 9. Subchapter B, Chapter 771, Health and Safety Code, is amended by adding Section 771.036 to read as follows:

Sec. 771.036. STANDARDS OF CONDUCT. The executive director or the executive director's designee shall provide to members of the commission and to employees of the commission, as often as necessary, information regarding the requirements for office or employment under this chapter, including information regarding a person's responsibilities under applicable laws relating to standards of conduct for state officers or employees.

SECTION 10. Subchapter B, Chapter 771, Health and Safety Code, is amended by adding Section 771.037 to read as follows:

Sec. 771.037. COMMISSION MEMBER TRAINING. (a) A person who is appointed to and qualifies for office as a member of the commission may not vote, deliberate, or be counted as a member in attendance at a meeting of the commission 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 commission;

(2) the programs operated by the commission;

(3) the role and functions of the commission;

(4) the rules of the commission, with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget of the commission;

(6) the results of the most recent formal audit of the commission;

(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 commission or the Texas Ethics Commission.

(c) A person appointed to the commission 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 of the program occurs before or after the person qualifies for office.

SECTION 11. Subchapter B, Chapter 771, Health and Safety Code, is amended by adding Section 771.038 to read as follows:

Sec. 771.038. PUBLIC COMMENTS. The commission shall develop and implement policies that provide the public with a reasonable opportunity to appear before the commission and to speak on any issue under the jurisdiction of the commission.

SECTION 12. Subchapter B, Chapter 771, Health and Safety Code, is amended by adding Section 771.039 to read as follows:

Sec. 771.039. COMPLAINTS. (a) The commission shall maintain a file on each written complaint filed with the commission. The file must include:

(1) the name of the person who filed the complaint;

(2) the date the complaint is received by the commission;

(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 commission closed the file without taking action other than to investigate the complaint.

(b) The commission shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the commission's policies and procedures relating to complaint investigation and resolution.

(c) The commission, at least quarterly and 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. Section 771.051, Health and Safety Code, is amended to read as follows:

Sec. 771.051. POWERS AND DUTIES OF [~~ADVISORY~~] COMMISSION. (a) The [~~advisory~~] commission is the state's authority on emergency communications. The commission shall:

(1) administer the implementation of statewide 9-1-1 service and the telecommunications requirements for poison control centers under Chapter 777;

(2) develop minimum performance standards for equipment and operation of 9-1-1 service to be followed in developing regional plans under Section 771.055, including requirements that the plans provide for:

(A) automatic number identification by which the telephone number of the caller is automatically identified at the public safety answering point receiving the call; and

(B) other features the commission considers appropriate;

(3) examine and approve or disapprove regional plans as provided by Section 771.056;

(4) recommend minimum training standards, assist in training, and provide assistance in the establishment and operation of 9-1-1 service;

(5) allocate money to prepare and operate regional plans as provided by Section 771.056;

(6) develop and provide public education materials and training;

(7) plan, implement, operate, and maintain poison control center databases and assist in planning, supporting, and facilitating 9-1-1 databases, as needed;

(8) provide grants or contracts for services that enhance the effectiveness of 9-1-1 service; [~~and~~]

(9) coordinate emergency communications services and providers;

(10) make reasonable efforts to gain voluntary cooperation in the commission's activities of emergency communications authorities and providers outside the commission's jurisdiction, including:

(A) making joint communications to state and federal regulators; and

(B) arranging cooperative purchases of equipment or services; and

(11) accept, receive, and deposit in its account in the general revenue fund gifts, grants, and royalties from public and private entities. Gifts, grants, and royalties may be used for the purposes of the commission.

(b) The [~~advisory~~] commission shall comply with state laws requiring state agencies, boards, or commissions generally to submit appropriations requests to the Legislative Budget Board and the governor and to develop a strategic plan for operations.

(c) The [~~advisory~~] commission may obtain a commercial license or sublicense to sell 9-1-1 or poison control public education and training materials in this state or in other states. The [~~advisory~~] commission may use all profits from sales for purposes of the commission.

(d) The commission shall develop and implement policies that clearly separate the policy making responsibilities of the commission and the management responsibilities of the executive director and the staff of the commission.

SECTION 14. Section 771.052, Health and Safety Code, is amended to read as follows:

Sec. 771.052. AGENCY COOPERATION. Each public agency and regional planning commission shall cooperate with the [~~advisory~~] commission to the fullest extent possible.

SECTION 15. Section 771.053(b), Health and Safety Code, is amended to read as follows:

(b) A member of the [~~advisory~~] commission or of the governing body of a public agency is not liable for any claim, damage, or loss arising from the provision of 9-1-1 service unless the act or omission causing the claim, damage, or loss violates a statute or ordinance applicable to the action.

SECTION 16. Section 771.055, Health and Safety Code, is amended to read as follows:

Sec. 771.055. STRATEGIC PLANNING [~~DEVELOPMENT OF REGIONAL PLANS~~]. (a) Each regional planning commission shall develop a regional plan for the establishment and operation of 9-1-1 service throughout the region that the regional planning commission serves. The 9-1-1 service must meet the standards established by the [~~advisory~~] commission.

(b) A regional [~~The~~] plan must describe [~~include a description of~~] how the 9-1-1 service is to be administered. The 9-1-1 service may be administered by an emergency communication district, municipality, or county, by a combination formed by interlocal contract, or by other appropriate means as determined by the regional planning commission. In a region in which one or more emergency communication districts exist, a preference shall be given to administration by those districts and expansion of the area served by those districts.

(c) A regional plan must be updated at least once every state fiscal biennium and must include:

(1) a description of how money allocated to the region under this chapter is to be allocated in the region;

(2) projected financial operating information for the two state fiscal years following the submission of the plan; and

(3) strategic planning information for the five state fiscal years following submission of the plan.

(d) In a region in which one or more emergency communication districts exist, if a district chooses to participate in the regional plan, the district shall assist in the development of the regional plan.

(e) For each state fiscal biennium, the commission shall prepare a strategic plan for statewide 9-1-1 service for the following five state fiscal years using information from the strategic information contained in the regional plans and provided by emergency communication districts and home-rule municipalities that operate 9-1-1 systems independent of the state system. The commission shall present the strategic plan to the governor and the Legislative Budget Board, together with the commission's legislative appropriations request. The strategic plan must:

(1) include a survey of the current performance, efficiency, and degree of implementation of emergency communications services throughout the whole state;

(2) provide an assessment of the progress made toward meeting the goals and objectives of the previous strategic plan and a summary of the total expenditures for emergency communications services in this state;

(3) provide a strategic direction for emergency communications services in this state;

(4) establish goals and objectives relating to emergency communications in this state;

(5) provide long-range policy guidelines for emergency communications in this state;

(6) identify major issues relating to improving emergency communications in this state;

(7) identify priorities for this state's emergency communications system; and

(8) detail the financial performance of each regional planning commission in implementing emergency communications service including an accounting of administrative expenses.

SECTION 17. Section 771.056, Health and Safety Code, is amended to read as follows:

Sec. 771.056. SUBMISSION OF REGIONAL PLAN TO COMMISSION. (a) The regional planning commission shall submit a regional plan, or an amendment to the plan, to the [~~advisory~~] commission for approval or disapproval.

(b) In making its determination, the [~~advisory~~] commission shall consider whether the plan or amendment satisfies the standards established by the [~~advisory~~] commission under this chapter, the cost and effectiveness of the plan or amendment, and the appropriateness of the plan or amendment in the establishment of statewide 9-1-1 service.

(c) The commission shall notify a regional planning commission of the approval or disapproval of the plan or amendment not later than the 90th day after the date the commission receives an administratively complete plan or amendment. If the [~~advisory~~] commission disapproves the plan, it shall specify the reasons for disapproval and set a deadline for submission of a modified plan.

(d) If the [~~advisory~~] commission approves the plan, it shall allocate to

the region from the money collected under Sections 771.071, 771.0711, and [~~Section~~] 771.072 and appropriated to the commission the amount that the [~~advisory~~] commission considers appropriate to operate 9-1-1 service in the region according to the plan and contracts executed under Section 771.078.

SECTION 18. Section 771.057, Health and Safety Code, is amended to read as follows:

Sec. 771.057. AMENDMENT OF PLAN. A regional plan may be amended according to the procedure determined by the [~~advisory~~] commission.

SECTION 19. Section 771.058, Health and Safety Code, is amended by amending Subsections (b) and (c) and adding Subsection (d) to read as follows:

(b) On approval by the [~~advisory~~] commission, an emergency communication district may choose to participate in the regional plan applicable to the regional planning commission region in which the district is located. An emergency communication district described by Section 771.001(3)(A) [~~771.001(2)(A)~~] may choose to participate in the regional plan by resolution of its governing body or by adoption of an ordinance. An emergency communication district described by Section 771.001(3)(B) [~~771.001(2)(B)~~] may choose to participate in the regional plan by order of the district's board after a public hearing held in the manner required for a public hearing on the continuation of the district under the law governing the district. Following the adoption of the resolution, ordinance, or order and approval by the [~~advisory~~] commission, the regional planning commission shall amend the regional plan to take into account the participation of the emergency communication district.

(c) Participation in the regional plan by an emergency communication district does not affect the organization or operation of the district, except that the district may not collect an emergency communication fee or other special fee for 9-1-1 service not permitted by this chapter. Participation by the district in the plan does not affect the district's authority to set its own fees in the territory under its jurisdiction on January 1, 1988. Participation in the regional plan by a public agency or group of public agencies operating as an emergency communication district as provided by Subsection (d) does not affect the authority of the public agency or group of public agencies to set its own fees in territory:

(1) under its jurisdiction at the time of recognition; or

(2) added to the district after the recognition.

(d) In a county with a population of 120,000 or less, a public agency or group of public agencies acting jointly that contracted with a service provider before September 1, 1987, to provide 9-1-1 service by resolution of its governing body may withdraw from a regional plan in which it chooses to participate. A public agency or group of public agencies that withdraws from a regional plan under this subsection shall be recognized and operate as an emergency communication district in the agency's or group's geographic jurisdiction. As an emergency communication district, the public agency or group of agencies:

(1) is governed by Subchapter D, Chapter 772; and

(2) may collect all fees authorized by that subchapter or other applicable law.

SECTION 20. Section 771.061(b), Health and Safety Code, is amended to read as follows:

(b) Information that a service provider of telecommunications service furnishes to the [~~advisory~~] commission[~~, a regional planning commission,~~] or an emergency communication district to verify or audit emergency service fees or surcharge remittances and that includes access line or market share information of an individual service provider is confidential and not available for public inspection.

SECTION 21. Section 771.062, Health and Safety Code, is amended to read as follows:

Sec. 771.062. LOCAL ADOPTION OF STATE RULE. (a) An emergency communication district may adopt any provision of this chapter or any [~~advisory~~] commission rule. The [~~advisory~~] commission may enforce a provision or rule adopted by an emergency communication district under this section.

(b) The [~~advisory~~] commission shall maintain and update at least annually a list of provisions or rules that have been adopted by emergency communication districts under this section.

(c) An emergency communication district or home-rule municipality that operates a 9-1-1 system independent of the state system may voluntarily submit strategic planning information to the commission for use in preparing the strategic plan for statewide 9-1-1 service. This information as determined by the commission, if reported, may:

(1) include a survey of the current performance, efficiency, and degree of implementation of emergency communications services;

(2) detail the progress made toward meeting the goals and objectives of the previous strategic plan;

(3) describe the strategic direction, goals, and objectives for emergency communications services;

(4) identify major issues, long-range policy guidelines, and priorities relating to improving emergency communications services; and

(5) detail the financial performance of each district in implementing emergency communications services.

(d) The commission shall establish reasonable guidelines for use by districts and home-rule municipalities in preparing information for the strategic plan for statewide 9-1-1 services. These guidelines shall include the time frames of information and instructions for submission.

SECTION 22. Sections 771.071(a), (c), (e), and (f), Health and Safety Code, are amended to read as follows:

(a) Except as otherwise provided by this subchapter, the [~~advisory~~] commission may impose a 9-1-1 emergency service fee on each local exchange access line or equivalent local exchange access line, including lines of customers in an area served by an emergency communication district participating in the applicable regional plan. If a business service user provides residential facilities, each line that terminates at a residential unit, and that is a communication link equivalent to a residential local exchange access line, shall be charged the 9-1-1 emergency service fee. The fee may not be imposed on a line to coin-operated public telephone equipment or to

public telephone equipment operated by coin or by card reader. For purposes of this section, the [~~advisory~~] commission shall determine what constitutes an equivalent local exchange access line.

(c) The [~~advisory~~] commission may set the fee in a different amount in each regional planning commission region based on the cost of providing 9-1-1 service to each region.

(e) A local exchange service provider shall collect the fees imposed on its customers under this section. Not later than the 30th [~~60th~~] day after the last day of the month in which the fees are collected, the local exchange service provider shall deliver the fees to the [~~regional planning commission or other public agency designated by the regional planning commission and located in the area served by the regional planning~~] commission. The commission shall deposit money from the fees to the credit of the 9-1-1 services fee fund.

(f) The [~~regional planning~~] commission [~~or designated public agency~~] shall distribute money appropriated to the commission from the 9-1-1 services fee fund to regional planning commissions for use in providing 9-1-1 services as provided by contracts executed under Section 771.078. The regional planning commissions shall distribute the money to [~~the fees to the~~] public agencies [~~in the county~~] for use in providing those services [~~9-1-1 service~~].

SECTION 23. Sections 771.0711(a), (b), (c), (e), (f), and (g), Health and Safety Code, are amended to read as follows:

(a) To provide for automatic number identification and automatic location identification of wireless 9-1-1 calls, the [~~advisory~~] commission shall impose on each wireless telecommunications connection a 9-1-1 emergency service fee. A political subdivision may not impose another fee on a wireless service provider or subscriber for 9-1-1 emergency service.

(b) A wireless service provider shall collect the fee in an amount equal to 50 cents a month for each wireless telecommunications connection from its subscribers and shall pay the money collected to the [~~advisory~~] commission not later than the 30th day after the last day of the month during which the fees were collected. The wireless service provider may retain an administrative fee of one percent of the amount collected. Until deposited to the credit of the 9-1-1 services fee fund as required by Subsection (c), money [~~Money~~] the [~~advisory~~] commission collects under this subsection [~~is from local fees and the money~~] remains outside the state treasury.

(c) Money collected under Subsection (b) may be used only for services related to 9-1-1 services, including automatic number identification and automatic location information services. Within 15 days of the date of collection of the money, the [~~advisory~~] commission shall distribute to each [~~regional planning commission and~~] emergency communication district that does not participate in the state system a portion of the money that bears the same proportion to the total amount collected that the population of the area served by the [~~commission or~~] district bears to the [~~total combined~~] population of the state. The commission shall deposit the remaining money collected under Subsection (b) to the 9-1-1 services fee fund [~~areas served by a commission or district~~].

(e) A member of the [~~advisory~~] commission, the governing body of a

public agency, or the General Services Commission is not liable for any claim, damage, or loss arising from the provision of wireless 9-1-1 service unless the act or omission causing the claim, damage, or loss violates a statute or ordinance applicable to the action.

(f) A wireless service provider is not required to take legal action to enforce the collection of any wireless 9-1-1 service fee. The [~~advisory~~] commission may establish collection procedures and recover the cost of collection from the subscriber liable for the fee. The [~~advisory~~] commission may institute legal proceedings to collect a fee and in those proceedings is entitled to recover from the subscriber court costs, attorney's fees, and interest on the amount delinquent. The interest is computed at an annual rate of 12 percent beginning on the date the fee becomes due.

(g) On receipt of an invoice from a wireless service provider for reasonable expenses for network facilities, including equipment, installation, maintenance, and associated implementation costs, the [~~advisory~~] commission or an emergency services district of a home-rule municipality or an emergency communication district created under Chapter 772 shall reimburse the wireless service provider in accordance with state law for all expenses related to 9-1-1 service.

SECTION 24. Sections 771.072(a), (c), and (f), Health and Safety Code, are amended to read as follows:

(a) In addition to the fee imposed under Section 771.071, the [~~advisory~~] commission shall impose a 9-1-1 equalization surcharge on each customer receiving intrastate long-distance service, including customers in an area served by an emergency communication district, even if the district is not participating in the regional plan.

(c) Except as provided by Section 771.073(f), an intrastate long-distance service provider shall collect the surcharge imposed on its customers under this section and shall deliver the surcharges to the [~~advisory~~] commission not later than the 30th [~~60th~~] day after the last day of the month in which the surcharges are collected.

(f) The [~~advisory~~] commission shall deposit the surcharges and any prior balances in an account in the general revenue fund in the state treasury until they are allocated to regional planning commissions and poison control centers in accordance with this section. From that account, the amount necessary for the commission to fund approved plans of regional planning commissions and regional poison control centers and to carry out its duties under this chapter shall be appropriated to the commission. Section 403.095, Government Code, does [~~Sections 403.094 and 403.095, Government Code, do~~] not apply to the account established by this subsection.

SECTION 25. Sections 771.0725(b), (c), and (d), Health and Safety Code, are amended to read as follows:

(b) Each year the [~~advisory~~] commission shall provide documentation to the Public Utility Commission of Texas regarding the rate at which each fee should be imposed and the allocation of revenue under Sections 771.072(d) and (e). The [~~advisory~~] commission may provide such documentation more often under this subsection if the [~~advisory~~] commission determines that action is necessary.

(c) The Public Utility Commission of Texas shall review the documentation provided by the [~~advisory~~] commission as well as allocations derived therefrom and also identified by the [~~advisory~~] commission. If the Public Utility Commission of Texas determines that a recommended rate or allocation is not appropriate, the Public Utility Commission of Texas shall provide comments to the [~~advisory~~] commission, the governor, and the Legislative Budget Board regarding appropriate rates and the basis for that determination.

(d) The Public Utility Commission of Texas may review and make comments regarding a rate or allocation under this section in an informal proceeding. A proceeding in which a rate or allocation is reviewed is not a contested case for purposes of Chapter 2001, Government Code. A review of a rate or allocation is not a rate change for purposes of Chapter 36 or 53, Utilities Code [~~Subtitle E, Title II, or Subtitle E, Title III, Public Utility Regulatory Act of 1995 (Article 1446c-0, Vernon's Texas Civil Statutes)~~].

SECTION 26. Sections 771.073(b), (c), (e), (f), and (g), Health and Safety Code, are amended to read as follows:

(b) A business service user that provides residential facilities and owns or leases a private telephone switch used to provide telephone service to facility residents shall collect the 9-1-1 emergency service fee and transmit the fees monthly to the [~~regional planning commission or other entity designated by the~~] commission [~~to collect the fee~~]. A business service user that does not collect and remit the 9-1-1 emergency service fee as required is subject to a civil cause of action. A court may award to the commission court costs, attorney's fees, and interest on the amount delinquent at an annual rate of 12 percent, to be paid by the nonpaying business service user. A sworn affidavit by the commission [~~entity that administers the 9-1-1 service~~] specifying the unremitted fees is prima facie evidence that the fees were not remitted and of the amount of the unremitted fees.

(c) The [~~advisory~~] commission[~~, the regional planning commission, or a public agency designated by the regional planning commission~~] may establish collection procedures and recover the cost of collection from the customer liable for the fee or surcharge. The [~~advisory~~] commission[~~, the regional planning commission, or the designated public agency~~] may institute legal proceedings to collect a fee or surcharge and in those proceedings is entitled to recover from the customer court costs, attorney's fees, and an interest on the amount delinquent. The interest is computed at an annual rate of 12 percent beginning on the date the fee or surcharge becomes due.

(e) A service provider collecting fees or surcharges under this subchapter may retain as an administrative fee an amount equal to one [~~two~~] percent of the total amount collected.

(f) The [~~advisory~~] commission may establish payment schedules and minimum payment thresholds for fees and surcharges imposed under this subchapter.

(g) A 9-1-1 service provider is responsible for correctly billing and remitting applicable 9-1-1 fees, charges, and equalization surcharges. Any 9-1-1 fees, charges, or equalization surcharges erroneously billed to a subscriber by a 9-1-1 service provider and erroneously remitted to the [~~advisory~~]

commission[~~, a regional planning commission,~~] or an emergency communication district may not be recovered from the [~~advisory~~] commission[~~, regional planning commission,~~] or emergency communication district[~~,~~] unless the fees or charges were adjusted due to a refund to the subscriber by the local exchange carrier or interexchange carrier.

SECTION 27. Section 771.075, Health and Safety Code, is amended to read as follows:

Sec. 771.075. USE OF REVENUE. Except as provided by Section 771.072(e), 771.072(f), or 771.073(e), fees and surcharges collected under this subchapter may be used only for planning, development, provision, and enhancement of [~~enhancing~~] the effectiveness of 9-1-1 service as approved by the [~~advisory~~] commission.

SECTION 28. Sections 771.076(a), (b), and (d), Health and Safety Code, are amended to read as follows:

(a) The [~~advisory~~] commission or an employee of the commission may notify the comptroller of any irregularity that may indicate that an audit of a service provider collecting a fee or surcharge under this subchapter is warranted. The commission may require at its own expense that an audit be conducted [~~of a service provider collecting fees or surcharges under this subchapter or~~] of a public agency receiving money under this chapter.

(b) If the comptroller conducts an audit of a service provider that collects and disburses fees or surcharges under this subchapter, the comptroller shall [~~may~~] also audit those collections and disbursements to determine if the provider is complying with this chapter.

(d) [~~The audit of a service provider under Subsection (a) must be limited to the collection and remittance of money collected under this subchapter.~~] The audit of a public agency under Subsection (a) or (c) must be limited to the collection, remittance, and expenditure of money collected under this subchapter.

SECTION 29. Section 771.077, Health and Safety Code, is amended to read as follows:

Sec. 771.077. COLLECTION OF FEES AND SURCHARGES [~~BY ADVISORY COMMISSION~~]. (a) The comptroller by rule shall [~~advisory commission may~~] establish collection procedures to collect past due amounts and recover the costs of collection from a service provider or business service user that fails to timely deliver[~~:~~

[~~(1)~~] the fees and [~~to the regional planning commission or other public agency designated by the regional planning commission; or~~

[~~(2)~~] the equalization surcharge to the [~~advisory~~] commission.

(b) The comptroller by rule [~~advisory commission~~] shall establish procedures to be used by the [~~a regional planning~~] commission [~~or designated public agency~~] to notify the comptroller [~~advisory commission~~] of a service provider's or business service user's failure to timely deliver the fees or surcharges.

(c) In addition to amounts collected under Subsection (a), after notice and an opportunity for a hearing, the comptroller [~~advisory commission~~] may assess a late penalty against a service provider who fails to timely deliver the fees or surcharges. The late penalty is in an amount not to exceed $100 a day for each day that the fees or surcharges are late.

(d) The comptroller [~~advisory commission~~] shall deposit amounts received as costs of collection in the general revenue fund.

(e) The comptroller shall:

(1) remit to the commission money collected under this section for fees provided by Section 771.0711 and associated late penalties;

(2) deposit to the 9-1-1 services fee fund any money collected under this section for fees provided by Section 771.071 and associated late penalties; and

(3) deposit to the account as authorized by Section 771.072 any money collected under this section for fees provided by Section 771.072 and associated late penalties.

(f) The commission shall:

(1) deposit or distribute the money remitted under Subsection (e)(1) as Section 771.0711 provides for fees received under that section; and

(2) distribute the money remitted under Subsection (e)(2) and appropriated to the commission under contracts as provided by Section 771.078(b)(1). [~~Fees and any associated late penalties collected under this section shall be delivered to the appropriate regional planning commission or other designated public agency as provided by Section 771.071(e), and surcharges and any associated late penalties shall be deposited as provided by Section 771.072(f).~~]

SECTION 30. Subchapter D, Chapter 771, Health and Safety Code, is amended by adding Section 771.078 to read as follows:

Sec. 771.078. CONTRACTS FOR SERVICES. (a) The commission shall contract with regional planning commissions for the provision of 9-1-1 service. The commission by rule shall adopt standard provisions for the contracts.

(b) In making contracts under this section, the commission shall ensure that each regional planning commission receives money for 9-1-1 service in two separately computed amounts as provided by this subsection. The commission must provide each regional planning commission with:

(1) an amount of money equal to the total of the revenue from the emergency service fees collected under Section 771.071 that is deposited in the treasury and appropriated to the commission multiplied by a fraction, the numerator of which is the amount of those fees collected from the region and the denominator of which is the total amount of those fees collected in this state; and

(2) an amount of money equal to the total of the revenue from the emergency service fee for wireless telecommunications connections under Section 771.0711 that is deposited in the treasury and appropriated to the commission multiplied by a fraction, the numerator of which is the population of the region and the denominator of which is the population of this state.

(c) Contracts under this section must provide for:

(1) the reporting of financial information regarding administrative expenses by regional planning commissions in accordance with generally accepted accounting principles;

(2) the reporting of information regarding the current performance, efficiency, and degree of implementation of emergency communications services in each regional planning commission's service area;

(3) the collection of efficiency data on the operation of 9-1-1 answering points;

(4) standards for the use of answering points and the creation of new answering points;

(5) quarterly disbursements of money due under the contract, except as provided by Subdivision (6);

(6) the commission to withhold disbursement to a regional planning commission that does not follow a standard imposed by the contract, a commission rule, or a statute; and

(7) a means for the commission to give an advance on a quarterly distribution under the contract to a regional planning commission that has a financial emergency.

(d) Not more than 10 percent of the money received by a regional planning commission under Subsection (b) may be used for the regional planning commission's indirect costs. In this subsection, "indirect costs" means costs that are not directly attributable to a single action of a commission. The governor shall use the federal Office of Management and Budget circulars A-87 and A-122 or use any rules relating to the determination of indirect costs adopted under Chapter 783, Government Code, in administering this section.

(e) The commission may allocate surcharges under Section 771.072(d) by means of a contract under this section.

(f) Promptly after the commission receives a request from a regional planning commission, the commission shall provide the regional planning commission with adequate documentation and financial records of the amount of money collected in that region or of an amount of money allocated to the regional planning commission in accordance with this section.

SECTION 31. Subchapter D, Chapter 771, Health and Safety Code, is amended by adding Section 771.079 to read as follows:

Sec. 771.079. 9-1-1 SERVICES FEE FUND. (a) The 9-1-1 services fee fund is an account in the general revenue fund.

(b) The account consists of:

(1) fees deposited in the fund as provided by Sections 771.071 and 771.0711; and

(2) notwithstanding Section 404.071, Government Code, all interest attributable to money held in the account.

(c) Money in the account may be appropriated only to the commission for planning, development, provision, or enhancement of the effectiveness of 9-1-1 service or for contracts with regional planning commissions for 9-1-1 service.

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

SECTION 32. Section 772.304(a), Health and Safety Code, is amended to read as follows:

(a) This subchapter applies only to a county with a population of more than 20,000 or to a group of two or more contiguous counties each with a population of 20,000 or more in which an emergency communication district was created under Chapter 288, Acts of the 69th Legislature, Regular Session, 1985, before January 1, 1988, or to a public agency or group of public

agencies that withdraws from participation in a regional plan under Section 771.058(d).

SECTION 33. Chapter 777, Health and Safety Code, is amended by adding Section 777.012 to read as follows:

Sec. 777.012. NUMBER AND LOCATION IDENTIFICATION SERVICE. (a) In this section:

(1) "Service provider" means an entity providing local exchange access lines to a service user and includes a business service user that provides residential facilities and owns or leases a public or private telephone switch used to provide telephone service to facility residents.

(2) "Service user" means a person that is provided local exchange access lines, or their equivalent.

(b) A service provider shall furnish to a poison control center for each call to an emergency line of the center the telephone number of the subscribers and the address associated with the number.

(c) Information furnished to a poison control center under this section is confidential and is not available for public inspection. Information contained in an address database used to provide the number or location identification information under this section is confidential and is not available for public inspection. The service provider or a third party that maintains an address database is not liable to any person for the release of information furnished by the service provider or third party in providing number or location identification information under this section, unless the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct.

SECTION 34. (a) The terms of the appointed members of the Advisory Commission on State Emergency Communications expire on the effective date of this Act. The members shall serve until a majority of the successor commission is appointed as provided by Section 771.031, Health and Safety Code, as amended by this Act, and has qualified.

(b) The governor, the lieutenant governor, and the speaker of the house of representatives shall appoint members of the Commission on State Emergency Communications as soon after the effective date of this Act as is practicable.

(c) The changes in law made by this Act regarding the appointment or qualifications of an appointed member of the Commission on State Emergency Communications apply only to a member appointed on or after the effective date of this Act. The appointment and qualifications of an appointed member of the Advisory Commission on State Emergency Communications are governed by the law as it existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(d) Before the Commission on State Emergency Communications makes a contract payment to a regional planning commission under Section 771.078, Health and Safety Code, as added by this Act, the commission shall ensure that the regional planning commission has spent all money the planning commission has received from fees under Sections 771.071 and 771.0711, Health and Safety Code, as those sections existed immediately before the effective date of this Act.

SECTION 35. The change in the name of the Advisory Commission on State Emergency Communications as provided by this Act does not affect the validity of any action taken by the commission before, on, or after the effective date of this Act. A reference in law to the Advisory Commission on State Emergency Communications means the Commission on State Emergency Communications.

SECTION 36. Not later than one year from the effective date of this Act, the Commission on State Emergency Communications shall implement Phase I of the wireless E-911 enhancements set forth in FCC Docket 94-102 for at least 75 percent of the population provided with 9-1-1 service by the Commission on State Emergency Communications.

SECTION 37. (a) The changes in law made by this Act regarding the date of payment of a fee or surcharge under Chapter 771, Health and Safety Code, as amended by this Act, apply only to a fee or surcharge collected on or after the effective date of this Act. A fee or surcharge that is collected before the effective date of this Act is due on the date the payment would have been due under the law as it existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(b) The changes in law made by this Act regarding the collection of fees, surcharges, or associated penalties apply only to an action taken on or after the effective date of this Act. The collection of a fee, surcharge, or associated penalty for which an action was initiated before the effective date of this Act is governed by the law as it existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

(c) The changes in law made by this Act regarding the disposition of a fee, surcharge, or associated penalty collected under Chapter 771, Health and Safety Code, as amended by this Act, and the amount a service provider may retain as an administrative fee apply only to a fee, surcharge, or penalty collected on or after the effective date of this Act. The disposition of a fee, surcharge, or associated penalty that was collected before the effective date of this Act and the amount a service provider may retain as an administrative fee are governed by the law as it existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 38. This Act takes effect September 1, 1999.

SECTION 39. 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 Bosse moved to adopt the conference committee report on **HB 1983**.

The motion prevailed without objection.

SB 50 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Naishtat submitted the conference committee report on **SB 50**.

Representative Naishtat moved to adopt the conference committee report on **SB 50**.

The motion prevailed without objection.

SB 86 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Hunter submitted the conference committee report on **SB 86**.

Representative Hunter moved to adopt the conference committee report on **SB 86**.

The motion prevailed without objection.

(Alexander in the chair)

SB 103 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Grusendorf submitted the conference committee report on **SB 103**.

Representative Grusendorf moved to adopt the conference committee report on **SB 103**.

The motion prevailed without objection.

SB 528 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Giddings submitted the conference committee report on **SB 528**.

Representative Giddings moved to adopt the conference committee report on **SB 528**.

The motion prevailed without objection.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

HB 2954 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Gray submitted the following conference committee report on **HB 2954**:

Austin, Texas, May 29, 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 2954** 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	Gray
Bivins	Heflin
Madla	McCall
Gallegos	Bosse
Armbrister	
On the part of the Senate	On the part of the House

HB 2954, A bill to be entitled An Act relating to the application of the sunset review process to certain state agencies.

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

ARTICLE 1. AGENCIES GIVEN 2001 SUNSET DATE

SECTION 1.01. TEXAS FUNERAL SERVICE COMMISSION. Subsection N, Section 2, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4582b, Vernon's Texas Civil Statutes), is amended to read as follows:

N. The Texas Funeral Service Commission is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this Act expires September 1, 2001 [~~2003~~].

SECTION 1.02. GENERAL SERVICES COMMISSION. Section 2152.002, Government Code, is amended to read as follows:

Sec. 2152.002. SUNSET PROVISION. The General Services Commission is subject to Chapter 325 (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this subtitle expires September 1, 2001 [~~2003~~].

ARTICLE 2. AGENCIES GIVEN 2003 SUNSET DATE

SECTION 2.01. TEXAS DEPARTMENT OF HUMAN SERVICES. Section 21.002, Human Resources Code, is amended to read as follows:

Sec. 21.002. SUNSET PROVISION. The Texas Department of Human Services is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the department is abolished and this title expires September 1, 2003 [~~1999~~], except that Chapter 40 expires as provided by Section 40.003.

SECTION 2.02. METROPOLITAN RAPID TRANSIT AUTHORITIES. Section 451.453, Transportation Code, is amended to read as follows:

Sec. 451.453. REVIEW BY SUNSET ADVISORY COMMISSION. Each authority that has been confirmed, other than an authority that was confirmed before 1980 in which the principal municipality has a population of less than 1.2 million, is subject [~~every 12th year~~] to review under Chapter 325, Government Code (Texas Sunset Act), but is not abolished under that chapter. Each authority shall be reviewed during the period in which state agencies abolished in 2003 and every 12th year after that year are reviewed.

SECTION 2.03. PUBLIC UTILITY COMMISSION OF TEXAS. Section 12.005, Utilities Code, is amended to read as follows:

Sec. 12.005. APPLICATION OF SUNSET ACT. The Public Utility Commission of Texas is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the commission is abolished and this title expires September 1, 2003 [~~2001~~].

SECTION 2.04. OFFICE OF PUBLIC UTILITY COUNSEL. Section 13.002, Utilities Code, is amended to read as follows:

Sec. 13.002. APPLICATION OF SUNSET ACT. The Office of Public Utility Counsel is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the office is abolished and this chapter expires September 1, 2003 [~~2001~~].

SECTION 2.05. TEXAS ETHICS COMMISSION. Section 571.022, Government Code, is amended to read as follows:

Sec. 571.022. SUNSET PROVISION. The commission is subject to review under Chapter 325 (Texas Sunset Act), but is not abolished under that chapter. The commission shall be reviewed during the periods in which state agencies abolished in 2003 [~~2001~~] and every 12th year after that year [~~2001~~] are reviewed.

ARTICLE 3. AGENCIES GIVEN 2007 SUNSET DATE

SECTION 3.01. TEXAS-ISRAEL EXCHANGE FUND BOARD. Section 45.006(i), Agriculture Code, is amended to read as follows:

(i) The board is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2007 [~~2001~~].

SECTION 3.02. OFFICIAL COTTON GROWERS' BOLL WEEVIL ERADICATION FOUNDATION. Section 74.127(a), Agriculture Code, is amended to read as follows:

(a) The board of directors of the official cotton growers' boll weevil eradication foundation is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this subchapter expires September 1, 2007 [~~2003~~].

SECTION 3.03. CHILDREN'S TRUST FUND OF TEXAS COUNCIL. Section 74.011, Human Resources Code, is amended to read as follows:

Sec. 74.011. SUNSET PROVISION. The Children's Trust Fund of Texas Council is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the council is abolished and this chapter expires September 1, 2007 [~~1999~~].

ARTICLE 4. AGENCY ABOLISHED AND FUNCTIONS TRANSFERRED

SECTION 4.01. TRANSFER OF FUNCTIONS FROM TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL AUTHORITY TO TEXAS NATURAL RESOURCE CONSERVATION COMMISSION. Subchapter A, Chapter 402, Health and Safety Code, is amended by adding Section 402.004 to read as follows:

Sec. 402.004. AGENCY ABOLISHED AND FUNCTIONS TRANSFERRED. The authority is abolished and any reference in this chapter or another law to the authority or the board means the Texas Natural Resource Conservation Commission.

SECTION 4.02. FURTHER TRANSFER. The powers, duties, obligations, rights, contracts, records, personnel, property, and unspent appropriations or other funds of the Texas Low-Level Radioactive Waste Disposal Authority are transferred to the Texas Natural Resource Conservation Commission. All rules of the Texas Low-Level Radioactive Waste Disposal Authority are continued in effect as the rules of the Texas Natural Resource Conservation Commission until superseded by a rule of the commission.

SECTION 4.03. REPEAL OF SUNSET PROVISION FOR TEXAS LOW-LEVEL RADIOACTIVE WASTE DISPOSAL AUTHORITY. Section 402.012, Health and Safety Code, is repealed.

ARTICLE 5. AGENCIES REMOVED FROM SUNSET REVIEW

SECTION 5.01. The following provisions in the Government Code are repealed:

(1) Section 42.006 (Office of the State Prosecuting Attorney);

(2) Section 71.002 (Texas Judicial Council);
(3) Section 91.008 (State Law Library); and
(4) Section 405.002 (Office of the Secretary of State).

ARTICLE 6. MISCELLANEOUS PROVISIONS

SECTION 6.01. PARKS AND WILDLIFE DEPARTMENT. In its review of the Parks and Wildlife Department for the 77th Legislature, the Sunset Advisory Commission shall include a review of appropriate sources of dedicated funding for financing the programs administered by the department. The Sunset Advisory Commission shall consider the results of the review in developing its recommendations to the 77th Legislature.

SECTION 6.02. TEXAS WATER DEVELOPMENT BOARD; TEXAS NATURAL RESOURCE CONSERVATION COMMISSION. If the Sunset Advisory Commission includes a study of groundwater districts in its review of the Texas Water Development Board or the Texas Natural Resource Conservation Commission for the 77th Legislature, to minimize duplication the commission shall closely coordinate with any interim legislative committees also studying groundwater districts.

SECTION 6.03. TEXAS FUNERAL SERVICE COMMISSION. The section of this Act that amends Subsection N, Section 2, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4582b, Vernon's Texas Civil Statutes), takes effect only if the 76th Legislature, Regular Session, 1999, does not enact other legislation that becomes law and that amends Subsection A, Section 2, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953 (Article 4582b, Vernon's Texas Civil Statutes), to change the membership of the Texas Funeral Service Commission.

SECTION 6.04. PUBLIC UTILITY COMMISSION OF TEXAS. The section of this Act that amends Section 12.005, Utilities Code, takes effect only if the 76th Legislature, Regular Session, 1999, does not enact other legislation that becomes law and that amends Section 12.005, Utilities Code, to extend the sunset date of the Public Utility Commission of Texas.

SECTION 6.05. OFFICE OF PUBLIC UTILITY COUNSEL. The section of this Act that amends Section 13.002, Utilities Code, takes effect only if the 76th Legislature, Regular Session, 1999, does not enact other legislation that becomes law and that amends Section 13.002, Utilities Code, to extend the sunset date of the Office of Public Utility Counsel.

SECTION 6.06. CHILDREN'S TRUST FUND OF TEXAS COUNCIL. (a) During the period in which the Sunset Advisory Commission performs its duties as required by Chapter 325, Government Code, preparing for a report to the 77th Legislature, the Children's Trust Fund of Texas Council is subject to a special-purpose review. In the review, the Sunset Advisory Commission shall:

(1) determine whether the council has improved its management efforts, reduced administrative costs, and improved its working relationship with other state agencies;

(2) monitor the council's efforts to comply with directives or requirements imposed on the council by the 76th Legislature, Regular Session, 1999; and

(3) perform any other analyses that the commission determines are appropriate.

(b) To the extent Chapter 325, Government Code, imposes a duty on a state agency under review, the Children's Trust Fund of Texas Council shall comply with that duty. The council shall provide to the Sunset Advisory Commission any information the commission considers necessary to carry out the commission's duties under this section.

(c) The Sunset Advisory Commission shall make recommendations to the 77th Legislature, Regular Session, 2001, as the commission considers appropriate, regarding the Children's Trust Fund of Texas Council.

ARTICLE 7. EFFECTIVE DATE; EMERGENCY

SECTION 7.01. EFFECTIVE DATE. Except as otherwise provided by this Act, this Act takes effect September 1, 1999.

SECTION 7.02. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Representative Gray moved to adopt the conference committee report on **HB 2954**.

The motion prevailed without objection.

SB 8 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Goodman submitted the conference committee report on **SB 8**.

(Speaker in the chair)

Representative Goodman moved to adopt the conference committee report on **SB 8**.

The motion prevailed without objection. (S. Turner recorded voting no)

HR 1348 - ADOPTED
(by Junell)

The following privileged resolution was laid before the house:

HR 1348

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 **SB 178**, relating to state agency practices and duties, including codification of certain state agency practices and duties currently prescribed by the General Appropriations Act, to consider and take action on the following matters:

(1) House Rule 13, Section 9(a)(3), is suspended to permit the committee to add the following Subsection (c) to Section 2161.004, Government Code, as added by the bill:

(c) Section 2161.003 and Subsections (a) and (b) of this section do not apply to a project or contract subject to Section 201.702, Transportation Code.

Explanation: This addition is necessary to clarify that the historically underutilized businesses provisions of Sections 2161.003 and 2161.004, Government Code, as added by the bill, that are generally applicable to state agencies do not override the disadvantaged businesses provisions of current law in Section 201.702, Transportation Code, that are applicable to the Texas Department of Transportation.

(2) House Rule 13, Section 9(a)(1), is suspended to permit the committee to amend Section 2161.122(d), Government Code, as redesignated by the bill, as follows:

(d) A state agency participating in a group purchasing program [~~described under Section 2155.139(b)~~] shall send to the commission in the agency's report under Section 2161.121 a separate list of purchases from historically underutilized businesses that are made through the group purchasing program, including the dollar amount of each purchase allocated to the reporting agency.

Explanation: This amendment is necessary to clarify that a state agency shall report its purchases from historically underutilized businesses under any group purchasing program.

(3) House Rule 13, Section 9(a)(3), is suspended to permit the committee to add the following Subdivision (4) to Section 2170.010, Government Code, as added by the bill:

(4) in the investigation of motor fuels tax fraud.

Explanation: This addition is necessary to allow the use of unlisted telephone numbers in the investigation of motor fuels tax fraud.

(4) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add a new Article 2 to the bill to read as follows:

ARTICLE 2. CERTAIN OTHER PROVISIONS
RELATED TO STATE AGENCY CONTRACTING WITH
HISTORICALLY UNDERUTILIZED BUSINESSES

SECTION 2.01. Section 2155.074(g), Government Code, as added by Chapter 508, Acts of the 75th Legislature, Regular Session, 1997, is amended to read as follows:

(g) A state agency shall post in the business daily either the entire bid or proposal solicitation package or a notice that includes all information necessary to make a successful bid, proposal, or other applicable expression of interest for the procurement contract, including at a minimum the following information for each procurement that the state agency will make that is estimated to exceed $25,000 in value:

(1) a brief description of the goods or services to be procured and any applicable state product or service codes for the goods and services;

(2) the last date on which bids, proposals, or other applicable expressions of interest will be accepted;

(3) the estimated quantity of goods or services to be procured;

(4) if applicable, the previous price paid by the state agency for the same or similar goods or services;

(5) the estimated date on which the goods or services to be procured will be needed; and

(6) the name, business mailing address, and business telephone

number of the state agency employee a person may contact to inquire about [~~obtain~~] all necessary information related to making a bid or proposal or other applicable expression of interest for the procurement contract.

SECTION 2.02. Subchapter A, Chapter 2161, Government Code, is amended by adding Section 2161.0015 to read as follows:

Sec. 2161.0015. DETERMINING SIZE STANDARDS FOR HISTORICALLY UNDERUTILIZED BUSINESSES. The commission may establish size standards that a business may not exceed if it is to be considered a historically underutilized business under this chapter. In determining the size standards, the commission shall determine the size at which a business should be considered sufficiently large that the business probably does not significantly suffer from the effects of past discriminatory practices.

SECTION 2.03. Sections 2161.061(b) and (c), Government Code, are amended to read as follows:

(b) As one [~~part~~] of its certification procedures, the commission may:

(1) approve the [~~another~~] certification program of one or more local governments in this state that certify [~~certifies~~] historically underutilized businesses, minority business enterprises, women's business enterprises, or disadvantaged business enterprises under substantially the same definition, to the extent applicable, used by Section 2161.001; and

(2) certify a business certified under the local government program as a historically underutilized business under this chapter.

(c) To maximize the number of certified historically underutilized businesses, the commission shall enter into agreements with local governments in this state that conduct certification programs described by Subsection (b). The agreements must take effect immediately and:

(1) allow for automatic certification of businesses certified under the local government program;

(2) provide for the efficient updating of the commission database containing information about historically underutilized businesses and potential historically underutilized businesses; and

(3) provide for a method by which the commission may efficiently communicate with businesses certified under the local government program and provide those businesses with information about the state historically underutilized business program. [~~A municipality, in certifying historically underutilized businesses, may adopt the certification program of the commission, of the federal Small Business Administration, or of another political subdivision or other governmental entity.~~]

SECTION 2.04. Section 2161.062, Government Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) The commission shall send historically underutilized businesses an orientation package on certification or recertification. The package shall include:

(1) a certificate issued in the historically underutilized business's name;

(2) a description of the significance and value of certification;

(3) a list of state purchasing personnel;

(4) information regarding electronic commerce opportunities;

(5) information regarding the Texas Marketplace website; and

(6) additional information about the state procurement process.

(e) A state agency with a biennial budget that exceeds $10 million shall designate a staff member to serve as the historically underutilized businesses coordinator for the agency during the fiscal year. The procurement director may serve as the coordinator. In agencies that employ a historically underutilized businesses coordinator, the position of coordinator, within the agency's structure, must be at least equal to the position of procurement director. In addition to any other responsibilities, the coordinator shall:

(1) coordinate training programs for the recruitment and retention of historically underutilized businesses;

(2) report required information to the commission; and

(3) match historically underutilized businesses with key staff within the agency.

SECTION 2.05. Section 2161.063(b), Government Code, is amended to read as follows:

(b) The commission shall assist the Texas Department of Economic Development [~~Commerce~~] in performing the department's duties under Section 481.0068 [~~481.103~~].

SECTION 2.06. Section 2161.064(b), Government Code, is amended to read as follows:

(b) The commission at least semiannually shall update the directory and provide access to the directory electronically or in another form [~~a copy of the directory~~] to each state agency.

SECTION 2.07. Sections 2161.121(a) and (e), Government Code, are amended to read as follows:

(a) The commission shall prepare a consolidated report that:

(1) includes the number and dollar amount of contracts awarded and paid to historically underutilized businesses certified by the commission; [~~and~~]

(2) analyzes the relative level of opportunity for historically underutilized businesses for various categories of acquired goods and services; and

(3) tracks, by vendor identification number and, to the extent allowed by federal law, by social security number, the graduation rates for historically underutilized businesses that grew to exceed the size standards determined by the commission.

(e) The commission shall send on October 15 of each year a report on the preceding fiscal year to the presiding officer of each house of the legislature[~~, the members of the legislature,~~] and the joint committee.

SECTION 2.08. Subchapter B, Chapter 2161, Government Code, is amended by adding Sections 2161.065 and 2161.066 to read as follows:

Sec. 2161.065. MENTOR-PROTEGE PROGRAM. (a) The commission shall design a mentor-protege program to foster long-term relationships between prime contractors and historically underutilized businesses and to increase the ability of historically underutilized businesses to contract with the state or to receive subcontracts under a state contract. Each state agency

with a biennial appropriation that exceeds $10 million shall implement the program designed by the commission.

(b) Participation in the program must be voluntary for both the contractor and the historically underutilized business subcontractor.

Sec. 2161.066. HISTORICALLY UNDERUTILIZED BUSINESS FORUMS. (a) The commission shall design a program of forums in which historically underutilized businesses are invited by state agencies to deliver technical and business presentations that demonstrate their capability to do business with the agency:

(1) to senior managers and procurement personnel at state agencies that acquire goods and services of a type supplied by the historically underutilized businesses; and

(2) to contractors with the state who may be subcontracting for goods and services of a type supplied by the historically underutilized businesses.

(b) The forums shall be held at state agency offices.

(c) Each state agency with a biennial appropriation that exceeds $10 million shall participate in the program by sending senior managers and procurement personnel to attend relevant presentations and by informing the agency's contractors about presentations that may be relevant to anticipated subcontracting opportunities.

(d) Each state agency that has a historically underutilized businesses coordinator shall:

(1) design its own program and model the program to the extent appropriate on the program developed by the commission under this section; and

(2) sponsor presentations by historically underutilized businesses at the agency.

(e) The commission and each state agency that has a historically underutilized businesses coordinator shall aggressively identify and notify individual historically underutilized businesses regarding opportunities to make a presentation regarding the types of goods and services supplied by the historically underutilized business and shall advertise in appropriate trade publications that target historically underutilized businesses regarding opportunities to make a presentation.

SECTION 2.09. Subchapter C, Chapter 2161, Government Code, is amended by adding Sections 2161.126 and 2161.127 to read as follows:

Sec. 2161.126. EDUCATION AND OUTREACH BY COMMISSION. Before September 1 of each year, the commission shall report to the governor, the lieutenant governor, and the speaker of the house of representatives on the education and training efforts that the commission has made toward historically underutilized businesses. The report must include the following as related to historically underutilized businesses:

(1) the commission's vision, mission, and philosophy;

(2) marketing materials and other educational materials distributed by the commission;

(3) the commission's policy regarding education, outreach, and dissemination of information;

(4) goals that the commission has attained during the fiscal year;

(5) the commission's goals, objectives, and expected outcome measures for each outreach and education event; and

(6) the commission's planned future initiatives on education and outreach.

Sec. 2161.127. LEGISLATIVE APPROPRIATIONS REQUESTS. Each state agency must include as part of its legislative appropriations request a detailed report for consideration by the budget committees of the legislature that shows the extent to which the agency complied with this chapter and rules of the commission adopted under this chapter during the two calendar years preceding the calendar year in which the request is submitted. To the extent the state agency did not comply, the report must demonstrate the reasons for that fact. The extent to which a state agency complies with this chapter and rules of the commission adopted under this chapter is considered a performance measure for purposes of the appropriations process.

SECTION 2.10. Chapter 2161, Government Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. SUBCONTRACTING

Sec. 2161.251. APPLICABILITY. (a) This subchapter applies to all contracts entered into by a state agency with an expected value of $100,000 or more, including:

(1) contracts for the acquisition of a good or service; and

(2) contracts for or related to the construction of a public building, road, or other public work.

(b) This subchapter applies to the contract without regard to:

(1) whether the contract is otherwise subject to this subtitle; or

(2) the source of funds for the contract, except that to the extent federal funds are used to pay for the contract, this subchapter does not apply if federal law prohibits the application of this subchapter in relation to the expenditure of federal funds.

Sec. 2161.252. AGENCY DETERMINATION REGARDING SUBCONTRACTING OPPORTUNITIES; BUSINESS SUBCONTRACTING PLAN. (a) Each state agency that considers entering into a contract with an expected value of $100,000 or more shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest for the contract, determine whether there will be subcontracting opportunities under the contract. If the state agency determines that there is that probability, the agency shall require that each bid, proposal, offer, or other applicable expression of interest for the contract include a historically underutilized business subcontracting plan.

(b) When a state agency requires a historically underutilized business subcontracting plan under Subsection (a), a bid, proposal, offer, or other applicable expression of interest for the contract must contain a plan to be considered responsive.

Sec. 2161.253. GOOD FAITH COMPLIANCE WITH BUSINESS SUBCONTRACTING PLAN. (a) When a state agency requires a historically underutilized business subcontracting plan under Section 2161.252, the awarded contract shall contain, as a provision of the contract that must be fulfilled, the plan that the contractor submitted in its bid, proposal, offer, or

other applicable expression of interest for the contract. The contractor shall make good faith efforts to implement the plan.

(b) To the extent that subcontracts are not contracted for as originally submitted in the historically underutilized business subcontracting plan, the contractor shall report to the state agency all the circumstances that explain that fact and describe the good faith efforts made to find and subcontract with another historically underutilized business.

(c) The state agency shall audit the contractor's compliance with the historically underutilized business subcontracting plan. In determining whether the contractor made the required good faith effort, the agency may not consider the success or failure of the contractor to subcontract with historically underutilized businesses in any specific quantity. The agency's determination is restricted to considering factors indicating good faith.

(d) If a determination is made that the contractor failed to implement the plan in good faith, the agency, in addition to any other remedies, may bar the contractor from further contracting opportunities with the agency.

(e) The commission shall adopt rules to administer this subchapter.

SECTION 2.11. Subchapter F, Chapter 2161, Government Code, as added by this Act, applies only to subcontracting under a contract entered into by a state agency for which the request for bids, proposals, offers, or other applicable expressions of interest is disseminated on or after April 1, 2000.

Explanation: This addition is necessary to make changes in the state's historically underutilized businesses purchasing program.

(5) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add a new Article 3 to the bill to read as follows:

ARTICLE 3. PROVISIONS RELATING TO STATE AGENCY CONTINGENCY FEE CONTRACTS FOR LEGAL SERVICES

SECTION 3.01.(a) The legislature finds that:

(1) a payment to a private attorney or law firm under a contingent fee contract for legal services entered into by a state governmental entity constitutes compensation paid to a public contractor for which the legislature must provide by law under Section 44, Article III, Texas Constitution; and

(2) funds recovered by a state governmental entity in litigation or in settlement of a matter that could have resulted in litigation are state funds that must be deposited in the state treasury and made subject to the appropriations process.

(b) It is the policy of this state that all funds recovered by a state governmental entity from an opposing party in litigation or in settlement of a matter that could have resulted in litigation, including funds designated as damages, amounts adjudged or awarded, attorney's fees, costs, interest, settlement proceeds, or expenses, are the property of the state governmental entity that must be deposited in the manner that public funds of the entity must be deposited. Legal fees and expenses may be paid from the recovered funds under a contingent fee contract for legal services only after the funds have been appropriately deposited and only in accordance with applicable law.

SECTION 3.02. Subchapter F, Chapter 404, Government Code, is amended by adding Section 404.097 to read as follows:

Sec. 404.097. DEPOSIT OF FUNDS RECOVERED BY LITIGATION OR SETTLEMENT. (a) Notwithstanding Section 404.093, this section applies by its terms to each state governmental entity.

(b) In this section, "contingent fee contract" and "state governmental entity" have the meanings assigned by Section 2254.101.

(c) All funds recovered by a state governmental entity in litigation or in settlement of a matter that could have resulted in litigation, including funds designated as damages, amounts adjudged or awarded, attorney's fees, costs, interest, settlement proceeds, or expenses, are public funds of the state or the state governmental entity and shall be deposited in the state treasury to the credit of the appropriate fund or account.

(d) Legal fees and expenses may be paid from the recovered funds under a contingent fee contract for legal services only:

(1) after the funds are deposited in accordance with this section; and

(2) in accordance with Subchapter C, Chapter 2254.

SECTION 3.03. Chapter 2254, Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. CONTINGENT FEE CONTRACT FOR LEGAL SERVICES

Sec. 2254.101. DEFINITIONS. In this subchapter:

(1) "Contingent fee" means that part of a fee for legal services, under a contingent fee contract, the amount or payment of which is contingent on the outcome of the matter for which the services were obtained.

(2) "Contingent fee contract" means a contract for legal services under which the amount or the payment of the fee for the services is contingent in whole or in part on the outcome of the matter for which the services were obtained.

(3) "State governmental entity":

(A) means the state or a board, commission, department, office, or other agency in the executive branch of state government created under the constitution or a statute of the state, including an institution of higher education as defined by Section 61.003, Education Code;

(B) includes the state when a state officer is bringing a parens patriae proceeding in the name of the state; and

(C) does not include a state agency or state officer acting as a receiver, special deputy receiver, liquidator, or liquidating agent in connection with the administration of the assets of an insolvent entity under Article 21.28, Insurance Code, or Chapter 36, 66, 96, or 126, Finance Code.

Sec. 2254.102. APPLICABILITY. (a) This subchapter applies only to a contingent fee contract for legal services entered into by a state governmental entity.

(b) The legislature by this subchapter is providing, in accordance with Section 44, Article III, Texas Constitution, for the manner in which and the situations under which a state governmental entity may compensate a public contractor under a contingent fee contract for legal services.

Sec. 2254.103. CONTRACT APPROVAL; SIGNATURE. (a) A state governmental entity that has authority to enter into a contract for legal services in its own name may enter into a contingent fee contract for legal services only if:

(1) the governing body of the state governmental entity approves the contract and the approved contract is signed by the presiding officer of the governing body; or

(2) for an entity that is not governed by a multimember governing body, the elected or appointed officer who governs the entity approves and signs the contract.

(b) The attorney general may enter into a contingent fee contract for legal services in the name of the state in relation to a matter that has been referred to the attorney general under law by another state governmental entity only if the other state governmental entity approves and signs the contract in accordance with Subsection (a).

(c) A state governmental entity, including the state, may enter into a contingent fee contract for legal services that is not described by Subsection (a) or (b) only if the governor approves and signs the contract.

(d) Before approving the contract, the governing body, elected or appointed officer, or governor, as appropriate, must find that:

(1) there is a substantial need for the legal services;

(2) the legal services cannot be adequately performed by the attorneys and supporting personnel of the state governmental entity or by the attorneys and supporting personnel of another state governmental entity; and

(3) the legal services cannot reasonably be obtained from attorneys in private practice under a contract providing only for the payment of hourly fees, without regard to the outcome of the matter, because of the nature of the matter for which the services will be obtained or because the state governmental entity does not have appropriated funds available to pay the estimated amounts required under a contract providing only for the payment of hourly fees.

(e) Before entering into a contingent fee contract for legal services in which the estimated amount that may be recovered exceeds $100,000, a state governmental entity that proposes to enter into the contract in its own name or in the name of the state must also notify the Legislative Budget Board that the entity proposes to enter into the contract, send the board copies of the proposed contract, and send the board information demonstrating that the conditions required by Subsection (d)(3) exist. If the state governmental entity finds under Subsection (d)(3) that the state governmental entity does not have appropriated funds available to pay the estimated amounts required under a contract for the legal services providing only for the payment of hourly fees, the state governmental entity may not enter into the proposed contract in its own name or in the name of the state unless the Legislative Budget Board finds that the state governmental entity's finding with regard to available appropriated funds is correct.

(f) A contingent fee contract for legal services that is subject to Subsection (e) and requires a finding by the Legislative Budget Board is void unless the board has made the finding required by Subsection (e).

Sec. 2254.104. TIME AND EXPENSE RECORDS REQUIRED; FINAL STATEMENT. (a) The contract must require that the contracting attorney or law firm keep current and complete written time and expense records that describe in detail the time and money spent each day in performing the contract.

(b) The contracting attorney or law firm shall permit the governing body or governing officer of the state governmental entity, the attorney general, and the state auditor each to inspect or obtain copies of the time and expense records at any time on request.

(c) On conclusion of the matter for which legal services were obtained, the contracting attorney or law firm shall provide the contracting state governmental entity with a complete written statement that describes the outcome of the matter, states the amount of any recovery, shows the contracting attorney's or law firm's computation of the amount of the contingent fee, and contains the final complete time and expense records required by Subsection (a). The complete written statement required by this subsection is public information under Chapter 552 and may not be withheld from a requestor under that chapter under Section 552.103 or any other exception from required disclosure.

(d) This subsection does not apply to the complete written statement required by Subsection (c). All time and expense records required under this section are public information subject to required public disclosure under Chapter 552. Information in the records may be withheld from a member of the public under Section 552.103 only if, in addition to meeting the requirements of Section 552.103, the chief legal officer or employee of the state governmental entity determines that withholding the information is necessary to protect the entity's strategy or position in pending or reasonably anticipated litigation. Information withheld from public disclosure under this subsection shall be segregated from information that is subject to required public disclosure.

Sec. 2254.105. CERTAIN GENERAL CONTRACT REQUIREMENTS. The contract must:

(1) provide for the method by which the contingent fee is computed;

(2) state the differences, if any, in the method by which the contingent fee is computed if the matter is settled, tried, or tried and appealed;

(3) state how litigation and other expenses will be paid and, if reimbursement of any expense is contingent on the outcome of the matter or reimbursable from the amount recovered in the matter, state whether the amount recovered for purposes of the contingent fee computation is considered to be the amount obtained before or after expenses are deducted;

(4) state that any subcontracted legal or support services performed by a person who is not a contracting attorney or a partner, shareholder, or employee of a contracting attorney or law firm is an expense subject to reimbursement only in accordance with this subchapter; and

(5) state that the amount of the contingent fee and reimbursement of expenses under the contract will be paid and limited in accordance with this subchapter.

Sec. 2254.106. CONTRACT REQUIREMENTS: COMPUTATION OF CONTINGENT FEE; REIMBURSEMENT OF EXPENSES. (a) The contract must establish the reasonable hourly rate for work performed by an attorney, law clerk, or paralegal who will perform legal or support services under the contract based on the reasonable and customary rate in the relevant locality

for the type of work performed and on the relevant experience, demonstrated ability, and standard hourly billing rate, if any, of the person performing the work. The contract may establish the reasonable hourly rate for one or more persons by name and may establish a rate schedule for work performed by unnamed persons. The highest hourly rate for a named person or under a rate schedule may not exceed $1,000 an hour. This subsection applies to subcontracted work performed by an attorney, law clerk, or paralegal who is not a contracting attorney or a partner, shareholder, or employee of a contracting attorney or law firm as well as to work performed by a contracting attorney or by a partner, shareholder, or employee of a contracting attorney or law firm.

(b) The contract must establish a base fee to be computed as follows. For each attorney, law clerk, or paralegal who is a contracting attorney or a partner, shareholder, or employee of a contracting attorney or law firm, multiply the number of hours the attorney, law clerk, or paralegal works in providing legal or support services under the contract times the reasonable hourly rate for the work performed by that attorney, law clerk, or paralegal. Add the resulting amounts to obtain the base fee. The computation of the base fee may not include hours or costs attributable to work performed by a person who is not a contracting attorney or a partner, shareholder, or employee of a contracting attorney or law firm.

(c) Subject to Subsection (d), the contingent fee is computed by multiplying the base fee by a multiplier. The contract must establish a reasonable multiplier based on any expected difficulties in performing the contract, the amount of expenses expected to be risked by the contractor, the expected risk of no recovery, and any expected long delay in recovery. The multiplier may not exceed four without prior approval by the legislature.

(d) In addition to establishing the method of computing the fee under Subsections (a), (b), and (c), the contract must limit the amount of the contingent fee to a stated percentage of the amount recovered. The contract may state different percentage limitations for different ranges of possible recoveries and different percentage limitations in the event the matter is settled, tried, or tried and appealed. The percentage limitation may not exceed 35 percent without prior approval by the legislature. The contract must state that the amount of the contingent fee will not exceed the lesser of the stated percentage of the amount recovered or the amount computed under Subsections (a), (b), and (c).

(e) The contract also may:

(1) limit the amount of expenses that may be reimbursed; and

(2) provide that the amount or payment of only part of the fee is contingent on the outcome of the matter for which the services were obtained, with the amount and payment of the remainder of the fee payable on a regular hourly rate basis without regard to the outcome of the matter.

(f) Except as provided by Section 2254.107, this section does not apply to a contingent fee contract for legal services:

(1) in which the expected amount to be recovered and the actual amount recovered do not exceed $100,000; or

(2) under which a series of recoveries is contemplated and the

amount of each individual recovery is not expected to and does not exceed $100,000.

(g) This section applies to a contract described by Subsection (f) for each individual recovery under the contract that actually exceeds $100,000, and the contract must provide for computing the fee in accordance with this section for each individual recovery that actually exceeds $100,000.

Sec. 2254.107. MIXED HOURLY AND CONTINGENT FEE CONTRACTS; REIMBURSEMENT FOR SUBCONTRACTED WORK. (a) This section applies only to a contingent fee contract:

(1) under which the amount or payment of only part of the fee is contingent on the outcome of the matter for which the services were obtained, with the amount and payment of the remainder of the fee payable on a regular hourly rate basis without regard to the outcome of the matter; or

(2) under which reimbursable expenses are incurred for subcontracted legal or support services performed by a person who is not a contracting attorney or a partner, shareholder, or employee of a contracting attorney or law firm.

(b) Sections 2254.106(a) and (e) apply to the contract without regard to the expected or actual amount of recovery under the contract.

(c) The limitations prescribed by Section 2254.106 on the amount of the contingent fee apply to the entire amount of the fee under the contingent fee contract, including the part of the fee the amount and payment of which is not contingent on the outcome of the matter.

(d) The limitations prescribed by Section 2254.108 on payment of the fee apply only to payment of the contingent portion of the fee.

Sec. 2254.108. FEE PAYMENT AND EXPENSE REIMBURSEMENT. (a) Except as provided by Subsection (b), a contingent fee and a reimbursement of an expense under a contract with a state governmental entity is payable only from funds the legislature specifically appropriates to pay the fee or reimburse the expense. An appropriation to pay the fee or reimburse the expense must specifically describe the individual contract, or the class of contracts classified by subject matter, on account of which the fee is payable or expense is reimbursable. A general reference to contingent fee contracts for legal services or to contracts subject to this subchapter or a similar general description is not a sufficient description for purposes of this subsection.

(b) If the legislature has not specifically appropriated funds for paying the fee or reimbursing the expense, a state governmental entity may pay the fee or reimburse the expense from other available funds only if:

(1) the legislature is not in session; and

(2) the Legislative Budget Board gives its prior approval for that payment or reimbursement under Section 69, Article XVI, Texas Constitution, after examining the statement required under Section 2254.104(c) and determining that the requested payment and the contract under which payment is requested meet all the requirements of this subchapter.

(c) A payment or reimbursement under the contract may not be made until:

(1) final and unappealable arrangements have been made for

depositing all recovered funds to the credit of the appropriate fund or account in the state treasury; and

(2) the state governmental entity and the state auditor have received from the contracting attorney or law firm the statement required under Section 2254.104(c).

(d) Litigation and other expenses payable under the contract, including expenses attributable to attorney, paralegal, accountant, expert, or other professional work performed by a person who is not a contracting attorney or a partner, shareholder, or employee of a contracting attorney or law firm, may be reimbursed only if the state governmental entity and the state auditor determine that the expenses were reasonable, proper, necessary, actually incurred on behalf of the state governmental entity, and paid for by the contracting attorney or law firm. The contingent fee may not be paid until the state auditor has reviewed the relevant time and expense records and verified that the hours of work on which the fee computation is based were actually worked in performing reasonable and necessary services for the state governmental entity under the contract.

Sec. 2254.109. EFFECT ON OTHER LAW. (a) This subchapter does not limit the right of a state governmental entity to recover fees and expenses from opposing parties under other law.

(b) Compliance with this subchapter does not relieve a contracting attorney or law firm of an obligation or responsibility under other law, including under the Texas Disciplinary Rules of Professional Conduct.

(c) A state officer, employee, or governing body, including the attorney general, may not waive the requirements of this subchapter or prejudice the interests of the state under this subchapter. This subchapter does not waive the state's sovereign immunity from suit or its immunity from suit in federal court under the Eleventh Amendment to the federal constitution.

SECTION 3.04. The changes in law made by this article apply only to a contract entered into on or after September 1, 1999.

Explanation: This addition is necessary to regulate matters relating to contingent fee contracts for legal services entered into by state agencies.

HR 1348 was adopted without objection.

SB 178 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Junell submitted the conference committee report on **SB 178**.

Representative Junell moved to adopt the conference committee report on **SB 178**.

The motion prevailed without objection. (Burnam, Deshotel, Eiland, Hodge, and S. Turner recorded voting no)

SB 370 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative submitted the conference committee report on **SB 370**.

Representative Bosse moved to adopt the conference committee report on **SB 370**.

The motion prevailed without objection.

SB 655 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Uresti submitted the conference committee report on **SB 655**.

SB 655 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE J. F. SOLIS: In the tax exemption section of SB 655, Section 378.001, an authority has the same exemption as that of a 4(b) corporation?

REPRESENTATIVE URESTI: Yes, it does.

REMARKS ORDERED PRINTED

Representative J. F. Solis moved to print remarks by Representative Uresti and Representative J. F. Solis.

The motion prevailed without objection.

Representative Uresti moved to adopt the conference committee report on **SB 655**.

The motion prevailed without objection.

HR 1350 - ADOPTED
(by Wilson)

The following privileged resolution was laid before the house:

HR 1350

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) is suspended, as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 1438**, relating to a pilot project transferring certain professional and occupational licensing boards to self-directed semi-independent status, to consider and take actions on the following matters:

(1) House Rule 13, Section 9(a)(1), is suspended to permit the committee to change the text of Subsection (c), Section 6, Article 8930, Revised Statutes, as added by SECTION 2 of the bill, to read as follows:

(c) The Texas State Board of Public Accountancy shall annually remit $500,000 to the general revenue fund, the Texas Board of Professional Engineers shall annually remit $50,000 to the general revenue fund, and the Texas Board of Architectural Examiners shall annually remit $700,000 to the general revenue fund.

Explanation: This change is necessary to specify the surplus amounts to be remitted by the pilot project agencies to the general revenue fund.

(2) House Rule 13, Sections 9(a)(1) and (2), are suspended to permit the committee to omit the text of Subsection (a), Section 15, Article 8930, Revised Statutes, as added by SECTION 2 of the bill, and to change the section heading of that section, changing the section to read as follows:

Sec. 15. POST-PARTICIPATION LIABILITY. (a) If a state agency no longer has status under this Act as a self-directed semi-independent project

agency either because of the expiration of this Act or for any other reason, the agency shall be liable for any expenses or debts incurred by the agency during the time the agency participated in the pilot project. The agency's liability under this section includes liability for any lease entered into by the agency. The state is not liable for any expense or debt covered by this subsection and money from the general revenue fund may not be used to repay the expense or debt.

(b) If a state agency no longer has status under this Act as a self-directed semi-independent project agency either because of the expiration of this Act or for any other reason, ownership of any property or other asset acquired by the agency during the time the agency participated in the pilot project shall be transferred to the state.

Explanation: This change is necessary to clarify the liability status of the pilot project agencies.

HR 1350 was adopted without objection.

SB 1438 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Wilson submitted the conference committee report on **SB 1438**.

Representative Wilson moved to adopt the conference committee report on **SB 1438**.

The motion prevailed without objection.

HR 1344 - ADOPTED
(by Keel)

The following privileged resolution was laid before the house:

HR 1344

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 1059**, relating to the regulation of amusement rides, to consider and take action on the following matters:

(1) House Rule 13, Sections 9(a)(1), (2), (3), and (4), are suspended to permit the committee to modify the existing text and add additional text, in Section 3 of the bill, to added Section 4(d), Article 21.60, Insurance Code, to read as follows:

(d) A person who operates an amusement ride in this state shall maintain accurate records of any governmental action taken in any state relating to that particular amusement ride, including an inspection resulting in the repair or replacement of equipment used in the operation of the amusement ride. The operator shall file with the commissioner on a quarterly basis a report on a form designed by the commissioner describing each governmental action taken in the quarter covered by the report for which the operator is required by this subsection to maintain records. A report is not required under this section in any quarter in which no reportable governmental action was taken in any state in which the person operated the amusement ride.

Explanation: This change is necessary to clarify that records of governmental actions are required to be maintained only for the specific amusement ride against which the actions are taken rather than for all amusement rides of a particular classification.

(2) House Rule 13, Sections 9(a)(1), (3), and (4), are suspended to permit the committee to modify the existing text and add additional text, in Section 6 of the bill, to amended Section 9(a), Article 21.60, Insurance Code, to read as follows:

(a) A person commits an offense if the person [~~he~~] fails to comply with any requirement under Section 4, [~~or~~] 5, 10(e), 10(f), 10(g), or 10(k) of this article or under any rule adopted by the commissioner under Section 4 of this article.

Explanation: This change is necessary to create a criminal offense for operating an amusement ride after a death has occurred on the ride.

HR 1344 was adopted without objection.

HB 1059 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Keel submitted the following conference committee report on **HB 1059**:

Austin, Texas, May 29, 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 1059** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Barrientos	Keel
Madla	Siebert
Whitmire	B. Turner
	Gutierrez
On the part of the Senate	On the part of the House

HB 1059, A bill to be entitled An Act relating to the regulation of amusement rides; providing penalties.

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

SECTION 1. Section 2, Article 21.60, Insurance Code, is amended by amending Subdivision (3) and adding Subdivisions (5) and (6) to read as follows:

(3) "Class A amusement ride" means an amusement ride with a fixed location and designed primarily for use by children 12 years of age or younger.

(5) "Commissioner" means the commissioner of insurance.

(6) "Mobile amusement ride" means an amusement ride that is designed or adapted to be moved from one location to another and is not fixed at a single location.

SECTION 2. Section 3(a), Article 21.60, Insurance Code, is amended to read as follows:

(a) The commissioner [~~board~~] shall administer and enforce this article. The commissioner [~~board~~] shall establish reasonable and necessary fees in an amount not to exceed $40 [~~$20~~] per year for each amusement ride covered by this Act.

SECTION 3. Section 4, Article 21.60, Insurance Code, is amended by amending Subsections (a) and (b) and adding Subsections (d), (e), (f), (g), (h), and (i) to read as follows:

(a) A person may not operate an amusement ride unless the person [~~he~~]:

(1) has the amusement ride inspected at least once annually by an insurer or a person with whom the insurer has contracted and obtains from that insurer or person a written certificate that the inspection has been made and that the amusement ride meets the standards for coverage and is covered by the insurance required by Subdivision [~~Subsection~~] (2) of this subsection [~~section~~]. If at any time the inspection reveals that an amusement ride does not meet the insurer's underwriting standards, the insurer shall so notify the owner or operator and in the event repair or replacement of equipment is required it shall be the responsibility of the owner or operator to make such repair or replacement before the amusement ride is offered for public use;

(2) has an insurance policy currently in force written by an insurance company authorized to do business in this state, a surplus lines insurer as defined by Article 1.14-2 of this code, or an independently procured policy subject to Article 1.14-1 of this code, in an amount of not less than $100,000 per occurrence with a $300,000 annual aggregate for Class A amusement rides and an amount of not less than $1,000,000 per occurrence for Class B amusement rides insuring the owner or operator against liability for injury to persons arising out of the use of the amusement ride;

(3) files with the commissioner [~~board~~], in the manner required by this article, the inspection certificate and the insurance policy required by this section or a photocopy of such a certificate or policy authorized by the commissioner [~~board~~]; and

(4) files with each sponsor, lessor, landowner, or other person responsible for an amusement ride being offered for use by the public a photocopy of the inspection certificate and the insurance policy required by this section [~~certificate stating that the insurance required by Subdivision (2) of this section is in effect~~].

(b) The inspection required under Subsection (a)(1) of this section must include a method to test the stress- and wear-related damage of critical parts of a ride that the manufacturer of the amusement ride [~~board~~] determines are reasonably subject to failure as the result of stress and wear and could cause injury to a member of the general public as a result of a failure.

(d) A person who operates an amusement ride in this state shall maintain accurate records of any governmental action taken in any state relating to that particular amusement ride, including an inspection resulting in the repair or replacement of equipment used in the operation of the amusement ride. The operator shall file with the commissioner on a quarterly basis a report on a form designed by the commissioner describing each governmental action

taken in the quarter covered by the report for which the operator is required by this subsection to maintain records. A report is not required under this section in any quarter in which no reportable governmental action was taken in any state in which the person operated the amusement ride.

(e) A person who operates an amusement ride shall maintain for not less than two years at any location where the ride is operated, for inspection by a municipal, county, or state law enforcement official, a photocopy of any quarterly report required under Subsection (c) or (d) of this section to be filed with the commissioner.

(f) The commissioner shall adopt rules requiring operators of mobile amusement rides to perform inspections of mobile amusement rides, including rules requiring daily inspections of safety restraints. Rules adopted under this subsection may apply to specific rides of specific manufacturers. The commissioner shall prescribe forms for inspections required under this subsection and shall require records of the inspections to be made available for inspection by any municipality, county, or state law enforcement officials at any location at which an amusement ride is operated.

(g) The commissioner shall adopt rules requiring that a sign be posted to inform the public how to report an amusement ride that appears to be unsafe or to report an amusement ride operator who appears to be violating the law. The rules must require the sign to be posted at the principal entrance to the site at which an amusement ride is located or at any location on that site at which tickets for an amusement ride are available.

(h) An amusement ride covered by this article that is sold, maintained, or operated in this state shall comply with standards established by the American Society of Testing and Materials (ASTM) as of May 1, 1999. Those standards are minimum standards. To the extent that the standards of the American Society of Testing and Materials conflict with the requirements of this article, the more stringent requirement or standard applies.

SECTION 4. Section 8, Article 21.60, Insurance Code, is amended to read as follows:

Sec. 8. INJUNCTIONS. The district attorney of each county in which an amusement ride is operated or, on request of the commissioner of insurance, the attorney general or one of his agents may seek an injunction against any person operating an amusement ride in violation of this article or in violation of a rule adopted by the commissioner under Section 4 of this article.

SECTION 5. The heading of Section 9, Article 21.60, Insurance Code, is amended to read as follows:

Sec. 9. PENALTIES[~~; LOCAL ENFORCEMENT~~].

SECTION 6. Section 9, Article 21.60, Insurance Code, is amended by amending Subsections (a) and (c) and adding Subsection (f) to read as follows:

(a) A person commits an offense if the person [~~he~~] fails to comply with any requirement under Section 4, [~~or~~ 5, 10(e), 10(f), 10(g), or 10(k) of this article or under any rule adopted by the commissioner under Section 4 of this article.

(c) An offense under this section is a Class B [~~C~~] misdemeanor.

(f) The prosecuting attorney in a case in which a person is convicted of

an offense under this section shall report the offense to the department not later than the 90th day after the date of the conviction.

SECTION 7. Article 21.60, Insurance Code, is amended by adding Section 10 to read as follows:

Sec. 10. ENFORCEMENT. (a) A municipal, county, or state law enforcement official may determine compliance with Section 4 or 5 of this article in conjunction with the commissioner and may institute an action in a court of competent jurisdiction to enforce this article.

(b) A municipal, county, or state law enforcement official may enter and inspect without notice any amusement ride at any time to ensure public safety.

(c) The operator of an amusement ride shall immediately provide the inspection certificate and the insurance policy required by Section 4 of this article to a municipal, county, or state law enforcement official requesting the information. A photocopy of the inspection certificate or insurance policy may be provided instead of the certificate or policy.

(d) Except as provided by Subsection (i) of this section, a municipal, county, or state law enforcement official may immediately prohibit operation of an amusement ride if:

(1) the operator of the amusement ride is unable to provide the documents or a photocopy of the documents required by Subsection (c) of this section;

(2) the law enforcement official reasonably believes the amusement ride is not in compliance with Section 4(a) of this article; or

(3) the operation of the amusement ride, conduct of a person operating the amusement ride, conduct of a person assembling the amusement ride if it is a mobile amusement ride, or any other circumstance causes the law enforcement official to reasonably believe that the amusement ride is unsafe or the safety of a passenger on the amusement ride is threatened.

(e) If the operation of an amusement ride is prohibited under Subsection (d)(1) or (2) of this section, a person may not operate the amusement ride unless:

(1) the operator presents to the appropriate municipal, county, or state law enforcement official proof of compliance with Section 4(a) of this article; or

(2) the commissioner or the commissioner's designee determines that on the date the amusement ride's operation was prohibited the operator had on file with the board the documents required by Section 4(a) of this article and issues a written statement permitting the amusement ride to resume operation.

(f) If on the date an amusement ride's operation is prohibited under Subsection (d)(3) of this section the amusement ride is not in compliance with Section 4(a) of this article, a person may not operate the amusement ride until after a person subsequently complies with Section 4(a) of this article.

(g) If on the date an amusement ride's operation is prohibited under Subsection (d)(3) of this section the amusement ride is in compliance with Section 4(a) of this article, a person may not operate the amusement ride until:

(1) on-site corrections are made;

(2) an order from a district judge, county judge, judge of a county court at law, justice of the peace, or municipal judge permits the amusement ride to resume operation; or

(3) an insurance company insuring the amusement ride on the date the amusement ride's operation was prohibited:

(A) reinspects the amusement ride in the same manner required under Section 4(a) of this article; and

(B) delivers to the commissioner or the commissioner's designee and the appropriate law enforcement official a reinspection certificate:

(i) stating that the required reinspection has occurred;

(ii) stating that the amusement ride meets coverage standards and is covered by insurance in compliance with Section 4(a) of this article; and

(iii) explaining the necessary repairs, if any, that have been made to the amusement ride after its operation was prohibited.

(h) The owner or operator of the amusement ride may file suit for relief from a prohibition under Subsection (d) or (k) of this section in a district court in the county in which the amusement ride was located when the prohibition against operation occurred.

(i) Subsection (d) of this section does not apply to an amusement ride with a fixed location and operated at an amusement park that was attended by more than 200,000 customers in the year preceding the inspection under Subsection (b) of this section.

(j) Performance or nonperformance by a municipal, county, or state law enforcement official of any action authorized by this article is a discretionary act.

(k) Except as provided by Subsection (l) or (m) of this section, a mobile amusement ride on which a death occurs may not be operated.

(l) If a mobile amusement ride was in compliance with Section 4(a) of this article when its operation was initially prohibited under Subsection (k) of this section, a person may resume operating the mobile amusement ride only after an insurance company insuring the amusement ride on the date its operation was prohibited:

(1) reinspects the amusement ride in the same manner required under Section 4(a) of this article; and

(2) delivers to the commissioner or the commissioner's designee a reinspection certificate:

(A) stating that the required reinspection has occurred;

(B) stating that the amusement ride meets coverage standards and is covered by insurance in compliance with Section 4(a) of this article; and

(C) explaining the necessary repairs, if any, that have been made to the amusement ride after its operation was prohibited.

(m) If a mobile amusement ride was not in compliance with Section 4(a) of this article when its operation was initially prohibited under Subsection (k)

of this section, a person may resume operating the mobile amusement ride only after the person subsequently complies with Section 4(a) of this article.

SECTION 8. Section 49.01, Penal Code, is amended by adding Subdivisions (5) and (6) to read as follows:

(5) "Amusement ride" has the meaning assigned by Section 2, Article 21.60, Insurance Code.

(6) "Mobile amusement ride" has the meaning assigned by Section 2, Article 21.60, Insurance Code.

SECTION 9. Chapter 49, Penal Code, is amended by adding Section 49.065 to read as follows:

Sec. 49.065. ASSEMBLING OR OPERATING AN AMUSEMENT RIDE WHILE INTOXICATED. (a) A person commits an offense if the person is intoxicated while operating an amusement ride or while assembling a mobile amusement ride.

(b) Except as provided by Subsection (c) and Section 49.09, an offense under this section is a Class B misdemeanor with a minimum term of confinement of 72 hours.

(c) If it is shown on the trial of an offense under this section that at the time of the offense the person operating the amusement ride or assembling the mobile amusement ride had an open container of alcohol in the person's immediate possession, the offense is a Class B misdemeanor with a minimum term of confinement of six days.

SECTION 10. Section 49.07(a), Penal Code, is amended to read as follows:

(a) A person commits an offense if the person, by accident or mistake:

(1) [;] while operating an aircraft, watercraft, or amusement ride while intoxicated, or while operating a motor vehicle in a public place while intoxicated, by reason of that intoxication causes serious bodily injury to another; or

(2) as a result of assembling a mobile amusement ride while intoxicated causes serious bodily injury to another.

SECTION 11. Section 49.08(a), Penal Code, is amended to read as follows:

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

(1) operates a motor vehicle in a public place, operates an aircraft, [~~or~~] a watercraft, or an amusement ride, or assembles a mobile amusement ride; and

(2) is intoxicated and by reason of that intoxication causes the death of another by accident or mistake.

SECTION 12. Sections 49.09(a), (b), (d), and (e), Penal Code, are amended to read as follows:

(a) If it is shown on the trial of an offense under Section 49.04, 49.05, [~~or~~] 49.06, or 49.065 that the person has previously been convicted one time of an offense relating to the operating of a motor vehicle while intoxicated, an offense of operating an aircraft while intoxicated, [~~or~~] an offense of operating a watercraft while intoxicated, or an offense of operating or assembling an amusement ride while intoxicated, the offense is a Class A misdemeanor, with a minimum term of confinement of 30 days.

(b) If it is shown on the trial of an offense under Section 49.04, 49.05, [~~or~~] 49.06, or 49.065 that the person has previously been convicted two times of an offense relating to the operating of a motor vehicle while intoxicated, an offense of operating an aircraft while intoxicated, [~~or~~] an offense of operating a watercraft while intoxicated, or an offense of operating or assembling an amusement ride while intoxicated, the offense is a felony of the third degree.

(d) For the purposes of this section, a conviction for an offense under Section 49.04, 49.05, 49.06, 49.065, 49.07, or 49.08 that occurs on or after September 1, 1994, is a final conviction, whether the sentence for the conviction is imposed or probated.

(e) A conviction may not be used for purposes of enhancement under this section if:

(1) the conviction was a final conviction under Subsection (d) and was for an offense committed more than 10 years before the offense for which the person is being tried was committed; and

(2) the person has not been convicted of an offense under Section 49.04, 49.05, 49.06, 49.065, 49.07, or 49.08 or any offense related to operating a motor vehicle while intoxicated committed within 10 years before the date on which the offense for which the person is being tried was committed.

SECTION 13. Section 49.09(c), Penal Code, is amended by adding Subdivision (4) to read as follows:

(4) "Offense of operating or assembling an amusement ride while intoxicated" means:

(A) an offense under Section 49.065;

(B) an offense under Section 49.07 or 49.08, if the offense involved the operation or assembly of an amusement ride; or

(C) an offense under the law of another state that prohibits the operation of an amusement ride while intoxicated or the assembly of a mobile amusement ride while intoxicated.

SECTION 14. Section 49.10, Penal Code, is amended to read as follows:

Sec. 49.10. NO DEFENSE. In a prosecution under Section 49.03, 49.04, 49.05, 49.06, 49.065, 49.07, or 49.08, the fact that the defendant is or has been entitled to use the alcohol, controlled substance, drug, dangerous drug, or other substance is not a defense.

SECTION 15. Section 9(e), Article 21.60, Insurance Code, is repealed.

SECTION 16. (a) This Act takes effect January 1, 2000.

(b) The change in law made by this Act to Section 9, Article 21.60, Insurance Code, applies only to an offense committed on or after the effective date of this Act.

(c) An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense is committed before the effective date of this Act if any element of the offense occurs before that date.

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.

Representative Keel moved to adopt the conference committee report on **HB 1059**.

The motion prevailed without objection.

HR 1355 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1355**, suspending the limitations on the conferees for **HB 400**.

SB 89 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Bosse submitted the conference committee report on **SB 89**.

SB 89 - STATEMENT OF LEGISLATIVE INTENT

The following expresses the intent of the house sponsor of **SB 89**:

This Act is not intended to abrogate or modify any contract to which a municipality is a party which was in effect on the effective date of this Act, including but not limited to, contracts for limited annexation, contracts for payment in lieu of annexation, and contracts with utility districts located within municipal boundaries.

Bosse

Representative Bosse moved to adopt the conference committee report on **SB 89**.

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

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 72).

HR 1308 - ADOPTED
(by Hupp)

Representative Hupp moved to suspend all necessary rules to take up and consider at this time **HR 1308**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1308, Honoring Thomas Earl Winters for his achievements and his commitment to the betterment of his community and state.

HR 1308 was read and was adopted without objection.

HR 1355 - ADOPTED
(by Thompson)

The following privileged resolution was laid before the house:

HR 1355

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 between the house and senate versions of **HB 400**, relating to the creation of certain district courts, to consider and take action on the following matter:

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

SECTION 26. (a) Except as provided by Subsection (b) of this section, for purposes of Section 201.027, Election Code, the effective date of the Act creating the office is the effective date of the Government Code section establishing the court under this Act.

(b) This section does not apply to the creation of the office of judge for a judicial district created by Section 15 of this Act.

Explanation: This change is necessary to clarify that, for purposes of Section 201.027, Election Code, the effective date of the Act creating the offices of judge of the 379th, 386th, 387th, 388th, 389th, 390th, 391st, 393rd, 395th, 396th, 398th, 399th, 400th, 401st, 402nd, 403rd, 407th, 408th, and 409th judicial districts is the effective date of each Government Code section establishing each of those districts under **HB 400**.

HR 1355 was adopted without objection.

HB 400 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Thompson submitted the following conference committee report on **HB 400**:

Austin, Texas, May 29, 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 400** have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form and text hereto attached.

Ellis	Thompson
Brown	Hinojosa
Harris	J. Solis
Wentworth	Haggerty
Zaffirini	Uresti
On the part of the Senate	On the part of the House

HB 400, A bill to be entitled An Act relating to the creation and composition of certain district courts and to the duties of the district attorney of the 63rd Judicial District.

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

SECTION 1. Effective September 1, 1999, Subchapter C, Chapter 24, Government Code, is amended by adding Sections 24.524, 24.531, and 24.533 to read as follows:

Sec. 24.524. 379TH JUDICIAL DISTRICT (BEXAR COUNTY). The 379th Judicial District is composed of Bexar County.

Sec. 24.531. 386TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 386th Judicial District is composed of Bexar County.

(b) The 386th District Court shall give preference to juvenile matters.

Sec. 24.533. 388TH JUDICIAL DISTRICT (EL PASO COUNTY). (a) The 388th Judicial District is composed of El Paso County.

(b) The 388th District Court shall give preference to family law matters.

SECTION 2. (a) Effective September 1, 1999, Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.532 to read as follows:

Sec. 24.532. 387TH JUDICIAL DISTRICT (FORT BEND COUNTY). (a) The 387th Judicial District is composed of Fort Bend County.

(b) The 387th District Court shall give preference to family law matters.

(b) The 387th Judicial District is created September 1, 1999.

SECTION 3. Effective September 1, 1999, Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.534 to read as follows:

Sec. 24.534. 389TH JUDICIAL DISTRICT (HIDALGO COUNTY). (a) The 389th Judicial District is composed of Hidalgo County.

(b) The 389th District Court shall give preference to criminal matters.

SECTION 4. (a) Effective September 1, 1999, Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.543 to read as follows:

Sec. 24.543. 398TH JUDICIAL DISTRICT (HIDALGO COUNTY). (a) The 398th Judicial District is composed of Hidalgo County.

(b) The 398th District Court shall give preference to family violence and criminal matters.

(b) The 398th Judicial District is created September 1, 1999.

SECTION 5. Effective October 1, 1999, Subchapter C, Chapter 24, Government Code, is amended by adding Sections 24.535 and 24.536 to read as follows:

Sec. 24.535. 390TH JUDICIAL DISTRICT (TRAVIS COUNTY). (a) The 390th Judicial District is composed of Travis County.

(b) The 390th District Court shall give preference to criminal matters.

Sec. 24.536. 391ST JUDICIAL DISTRICT (TOM GREEN COUNTY). (a) The 391st Judicial District is composed of Tom Green County.

(b) The terms of the 391st District Court begin on the first Mondays in March and September.

(c) Indictments within Tom Green County issued by any district court in the county may be returned to the 391st District Court.

(d) Section 24.153, relating to the 51st District Court, contains provisions applicable to both that court and the 391st District Court.

SECTION 6. Effective October 1, 1999, Section 24.153(c), Government Code, is amended to read as follows:

(c) The judges of the 51st, 119th, [~~and~~] 340th, and 391st district courts may, in their discretion, exchange benches and sit for each other without formal order in each county in those districts, including counties in which the districts do not overlap. Any of the judges may, in his own courtroom, try and determine any case or proceeding pending in any of the other courts without having the case transferred, or may sit in any of the other courts and hear and determine any case pending in one of those courts. The judges may try different cases filed in the same court at the same time, and each may occupy his own courtroom or the room of any other court. In case of absence, sickness, or disqualification of any of the judges, any of the other judges may hold court for him. Any of the judges may hear and determine any part or question of a case or proceeding pending in any of the courts, and any of the other judges may complete the hearing and render judgment in the case. Any of the judges may hear and determine motions, petitions for injunction, applications for appointment of receivers, interventions, motions to transfer venue, pleas in abatement, all dilatory pleas, motions for new trials, and all preliminary matters, questions, and proceedings, and may enter judgment or order thereon in the court in which the case is pending without having the case transferred to the court of the acting judge. The judge in whose court the case is pending may proceed to hear, complete, and determine any part or all of the case or other matter and render final judgment. Any of the judges may issue restraining orders and injunctions returnable to any of the other judges or courts.

SECTION 7. Effective January 1, 2000, Subchapter C, Chapter 24, Government Code, is amended by adding Sections 24.538, 24.540, and 24.541 to read as follows:

Sec. 24.538. 393RD JUDICIAL DISTRICT (DENTON COUNTY). (a) The 393rd Judicial District is composed of Denton County.

(b) The 393rd District Court shall give preference to family law matters.

Sec. 24.540. 395TH JUDICIAL DISTRICT (WILLIAMSON COUNTY). The 395th Judicial District is composed of Williamson County.

Sec. 24.541. 396TH JUDICIAL DISTRICT (TARRANT COUNTY). (a) The 396th Judicial District is composed of Tarrant County.

(b) The 396th District Court shall give preference to criminal matters.

SECTION 8. Effective January 1, 2000, Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.554 to read as follows:

Sec. 24.554. 408TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 408th Judicial District is composed of Bexar County.

(b) The 408th District Court shall give preference to civil matters.

SECTION 9. Effective September 1, 2000, Subchapter C, Chapter 24, Government Code, is amended by adding Sections 24.544, 24.546, and 24.555 to read as follows:

Sec. 24.544. 399TH JUDICIAL DISTRICT (BEXAR COUNTY). (a) The 399th Judicial District is composed of Bexar County.

(b) The 399th District Court shall give preference to criminal matters.

Sec. 24.546. 401ST JUDICIAL DISTRICT (COLLIN COUNTY). The 401st Judicial District is composed of Collin County.

Sec. 24.555. 409TH JUDICIAL DISTRICT (EL PASO COUNTY). The 409th Judicial District is composed of El Paso County.

SECTION 10. Effective September 1, 1999, Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.547 to read as follows:<font nm="Courier Regular"<font nm="Courier Regular"

Sec. 24.547. 402ND JUDICIAL DISTRICT (WOOD COUNTY). (a) The 402nd Judicial District is composed of Wood County.

(b) The 402nd District Court has concurrent jurisdiction with the county court in Wood County over all matters of civil and criminal jurisdiction, original and appellate, in cases over which the county court has jurisdiction under the constitution and laws of this state. Matters and proceedings in the concurrent jurisdiction of the 402nd District Court and the county court may be filed in either court and all cases of concurrent jurisdiction may be transferred between the 402nd District Court and the county court. However, a case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred, and a case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.<font nm="Courier Regular"<font nm="Courier Regular"

SECTION 11. (a) Effective September 1, 2000, Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.545 to read as follows:

Sec. 24.545. 400TH JUDICIAL DISTRICT (FORT BEND COUNTY). The 400th Judicial District is composed of Fort Bend County.

(b) The 400th Judicial District is created September 1, 2000.

SECTION 12. Effective September 1, 1999, Section 24.216, Government Code, is amended to read as follows:

Sec. 24.216. 114TH JUDICIAL DISTRICT (SMITH COUNTY [~~AND WOOD COUNTIES~~]). (a) The 114th Judicial District is composed of Smith County [~~and Wood counties~~].

(b) The terms of the 114th District Court [~~in each county of the district~~] begin on the first Mondays in January and July.

SECTION 13. Effective September 1, 1999, Section 24.471, Government Code, is amended to read as follows:

Sec. 24.471. 294TH JUDICIAL DISTRICT (VAN ZANDT COUNTY [~~AND WOOD COUNTIES~~]). (a) The 294th Judicial District is composed of Van Zandt County [~~and Wood counties~~].

(b) The 294th District Court has concurrent jurisdiction with the county court in [~~Wood and~~] Van Zandt County [~~counties~~] over all matters of civil and criminal jurisdiction, original and appellate, in cases over which the county court has jurisdiction under the constitution and laws of this state. Matters [~~In each of the counties, matters~~] and proceedings in the concurrent jurisdiction of the 294th District Court and the county court may be filed in either court and all cases of concurrent jurisdiction may be transferred between the 294th District Court and the county court. However, a case may not be transferred from one court to another without the consent of the judge of the court to which it is transferred, and a case may not be transferred unless it is within the jurisdiction of the court to which it is transferred.

SECTION 14. Effective December 1, 2000, Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.548 to read as follows:

Sec. 24.548. 403RD JUDICIAL DISTRICT (TRAVIS COUNTY). (a) The 403rd Judicial District is composed of Travis County.

(b) The 403rd District Court shall give preference to criminal matters.

SECTION 15. Effective January 1, 2001, Subchapter C, Chapter 24, Government Code, is amended by adding Sections 24.549-24.551 to read as follows:

Sec. 24.549. 404TH JUDICIAL DISTRICT (CAMERON COUNTY). The 404th Judicial District is composed of Cameron County.

Sec. 24.550. 405TH JUDICIAL DISTRICT (GALVESTON COUNTY). The 405th Judicial District is composed of Galveston County.

Sec. 24.551. 406TH JUDICIAL DISTRICT (WEBB COUNTY). (a) The 406th Judicial District is composed of Webb County.

(b) The 406th District Court shall give preference to cases involving family violence, cases under the Family Code, and cases under the Health and Safety Code.

SECTION 16. Effective September 1, 2000, Subchapter C, Chapter 24, Government Code, is amended by adding Section 24.552 to read as follows:

Sec. 24.552. 407TH JUDICIAL DISTRICT (BEXAR COUNTY). The 407th Judicial District is composed of Bexar County.

SECTION 17. Effective January 1, 2001, Section 24.151(f), Government Code, is amended to read as follows:

(f) In Webb County, the clerk of the district courts shall file all civil cases, except tax suits, on the Clerk's Civil File Docket and shall number the cases consecutively. All tax suits shall be assigned and docketed in the 49th District Court. All cases involving family violence, all cases under the Family Code, and all cases under the Health and Safety Code shall be assigned and docketed in the 406th District Court. All other [~~Each~~] civil cases [~~case, except tax suits,~~] shall be assigned and docketed at random by the district clerk [~~according to the following percentages: 49th District Court, 20 percent; 111th District Court, 60 percent; and the 341st District Court, 20 percent~~]. The clerk shall keep a separate file docket, known as the Clerk's Criminal File Docket, for criminal cases and a separate file docket, known as the Clerk's Tax Suit Docket, for tax suits. [~~Each tax suit shall be assigned and docketed in the 49th District Court.~~] The clerk shall number the cases on the Clerk's Tax Suit Docket consecutively with a separate series of numbers and shall number the cases on the Clerk's Criminal File Docket consecutively with a separate series of numbers.

SECTION 18. Effective September 1, 1999, Sections 24.185 and 43.133, Government Code, are amended to read as follows:

Sec. 24.185. 83RD JUDICIAL DISTRICT (PECOS, REAGAN, TERRELL, [~~AND~~] UPTON, AND VAL VERDE COUNTIES). (a) The 83rd Judicial District is composed of Pecos, Reagan, Terrell, [~~and~~] Upton, and Val Verde counties.

(b) The 83rd and 112th district courts have concurrent jurisdiction in Pecos, Reagan, and Upton counties.

(c) The 83rd and 63rd district courts have concurrent jurisdiction in Terrell and Val Verde counties.

(d) The terms of the 83rd District Court begin:

(1) on the second [~~ninth~~] Monday [~~after the first Mondays~~] in January and July;

(2) in Reagan County on the 14th Monday after the first Mondays in January and July; and

(3) in Upton County on the 12th Monday after the first Mondays in January and July.

(e) [~~(d)~~] In each of the counties of Pecos, Terrell, [~~and~~] Upton, and Val Verde, a petition or other pleading filed in the district courts is sufficient if addressed "To The District Court of Pecos County, Texas,", "To The District Court of Terrell County, Texas,", [~~or~~] "To The District Court of Upton County, Texas,", or "To The District Court of Val Verde County, Texas," respectively, without giving the number of the district court in the address.

[~~(e) The secretary of state shall submit the changes made to this section by H.B. 3235 of the 74th Legislature, Regular Session, to the U.S. Justice Department for preclearance under Section 5 of the federal Voting Rights Act of 1965 as amended (42 U.S.C. Section 1973 et seq.). The changes made to this section by H.B. 3235 of the 74th Legislature, Regular Session, become inoperative if the U.S. Justice Department files a timely objection pursuant to Section 5 of the Voting Rights Act of 1965 as amended.~~]

Sec. 43.133. 63RD JUDICIAL DISTRICT. (a) The voters of the 63rd Judicial District elect a district attorney.

(b) The district attorney for the 63rd district also acts as district attorney for the 83rd Judicial District in Terrell and Val Verde counties.

SECTION 19. The 379th, 386th, 388th, 389th, and 402nd judicial districts are created September 1, 1999.

SECTION 20. The 390th and 391st judicial districts are created October 1, 1999.

SECTION 21. The 393rd, 395th, 396th, and 408th judicial districts are created January 1, 2000.

SECTION 22. The 399th, 401st, 407th, and 409th judicial districts are created September 1, 2000.

SECTION 23. (a) On September 1, 1999, the local administrative district judge shall transfer all cases from Wood County that are pending in the 114th District Court or the 294th District Court to the 402nd District Court.

(b) When a case is transferred from one court to another as provided by Subsection (a) of this section, all processes, writs, bonds, recognizances, or other obligations issued from the transferring court are returnable to the court to which the case is transferred, as if originally issued by that court. The obligees in all bonds and recognizances taken in and for a court from which a case is transferred, and all witnesses summoned to appear in a court from which a case is transferred, are required to appear before the court to which a case is transferred as if originally required to appear before the court to which the transfer is made.

SECTION 24. The 403rd Judicial District is created December 1, 2000.

SECTION 25. (a) The 404th, 405th, and 406th judicial districts are created January 1, 2001.

(b) The initial vacancy in the offices of judge of the 404th, 405th, and 406th judicial districts shall be filled by election. The offices exist for

purposes of the primary and general elections in 2000. A vacancy after the initial vacancy is filled as provided by Section 28, Article V, Texas Constitution.

SECTION 26. (a) Except as provided by Subsection (b) of this section, for purposes of Section 201.027, Election Code, the effective date of the Act creating the office is the effective date of the Government Code section establishing the court under this Act.

(b) This section does not apply to the creation of the office of judge for a judicial district created by Section 15 of this Act.

SECTION 27. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Representative Thompson moved to adopt the conference committee report on **HB 400**.

The motion prevailed without objection.

(Speaker pro tempore in the chair)

HR 1353 - ADOPTED
(by Chisum)

Representative Chisum moved to suspend all necessary rules to take up and consider at this time **HR 1353**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1353, Recognizing the 80th anniversary of the founding of Booker, Texas.

HR 1353 was adopted without objection.

HR 1352 - ADOPTED
(by R. Lewis)

Representative R. Lewis moved to suspend all necessary rules to take up and consider at this time **HR 1352**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1352, Honoring the retirement of Sharon "Sha" McMullen.

HR 1352 was adopted without objection.

On motion of Representative Chisum, the names of all the members of the house were added to **HR 1352** as signers thereof.

HR 1349 - ADOPTED
(by Hunter)

Representative Hunter moved to suspend all necessary rules to take up and consider at this time **HR 1349**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1349, Commemorating the observance of Memorial Day, May 31, 1999.

HR 1349 was adopted without objection.

HR 1351 - ADOPTED
(by Hawley)

Representative Hawley moved to suspend all necessary rules to take up and consider at this time **HR 1351**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1351, Congratulating William L. "Bill" Chapman on his retirement as superintendent of the Kenedy School District.

HR 1351 was adopted without objection.

HR 1354 - ADOPTED
(by Olivo)

Representative Olivo moved to suspend all necessary rules to take up and consider at this time **HR 1354**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1354, Congratulating James Saucedo on being named salutatorian of B.S. Terry High School.

HR 1354 was read and was adopted without objection.

HR 1347 - ADOPTED
(by Gallego)

Representative Cook moved to suspend all necessary rules to take up and consider at this time **HR 1347**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1347, Honoring the exhibit "Baseball: The National Pastime and the Big Bend" to be held at the Museum of the Big Bend in Alpine and recognizing June 25, 1999, as Herbert L. Kokernot, Jr., Day.

HR 1347 was adopted without objection.

HR 1346 - ADOPTED
(by Thompson)

Representative Thompson moved to suspend all necessary rules to take up and consider at this time **HR 1346**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1346, Honoring the Crockett Colored High/Ralph J. Bunche High School Alumni, Ex-Students, and Teachers Association.

HR 1346 was adopted without objection.

HR 1357 - NOTICE OF INTRODUCTION

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the chair announced the introduction of **HR 1357**, suspending the limitations on the conferees for **SB 4**.

HR 1345 - ADOPTED
(by Carter)

Representative Carter moved to suspend all necessary rules to take up and consider at this time **HR 1345**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1345, In memory of Lisa N. Marx.

HR 1345 was unanimously adopted by a rising vote.

On motion of Representative Hartnett, the names of all the members of the house were added to **HR 1345** as signers thereof.

HR 1358 - ADOPTED
(by Yarbrough)

Representative Yarbrough moved to suspend all necessary rules to take up and consider at this time **HR 1358**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1358, Congratulating Maria Garcia-Rameau on her receipt of a 1999 Outstanding Teaching of the Humanities Award from the Texas Council for the Humanities.

HR 1358 was adopted without objection.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 3).

HR 1356 - ADOPTED
(by Deshotel)

Representative Deshotel moved to suspend all necessary rules to take up and consider at this time **HR 1356**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1356, Welcoming the members of the Beaumont Branch NAACP Youth Council to the State Capitol.

HR 1356 was adopted without objection.

HR 1359 - ADOPTED
(by Counts)

Representative Counts moved to suspend all necessary rules to take up and consider at this time **HR 1359**.

The motion prevailed without objection.

The following resolution was laid before the house:

HR 1359, In memory of Hubert W. Cargile.

HR 1359 was unanimously adopted by a rising vote.

(Speaker in the chair)

SB 766 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Allen submitted the conference committee report on **SB 766**.

SB 766 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE ZBRANEK: Representative Allen, in our negotiations, I agreed to remove my amendment, Floor Amendment No. 10, because subsection 382.0519(e) is only intended for TNRCC's use in very limited situations. And basically we're talking about the ALCOA amendment. It is intended for use only when a facility has documented clearly to TNRCC that exceptional economic hardship or specific technical impracticability problems are a barrier to implementing the reductions required by the permit. Therefore, it is expected that the discretionary authority to "defer" required emissions reductions would be used by TNRCC only in very exceptional cases. Does that clearly express our agreement and intent?

REPRESENTATIVE ALLEN: Yes, I believe that's correct.

ZBRANEK: When we're talking about the area of the legislation dealing with levels of pollution control technology for non-attainment and near non-attainment areas, it is the intent of Section 382.0519(b)(2)(B) that a grandfathered facility located in a non-attainment or near non-attainment area where "facilities in that area of the same type" are using best available technology, that will be the "more stringent" standard to be applied. If other facilities in that area of the same type are using something less, then that is the standard to be applied. Does that clearly express our agreement and intent?

ALLEN: If you are speaking about grandfathered facilities which are giving up their grandfathered status and coming into the permit, then yes, I believe you are correct.

ZBRANEK: And as we're dealing with standard permitting, what we've done for the first time-- and this is at the request of the TNRCC--in **SB 766** we

codified the TNRCC's common practice of issuing standard permits in Section 382.05195. My third reading amendment was struck so that this practice could apply to more than just grandfathered facilities. However, it is not our intent that the TNRCC use standard permitting in any other way than the way the TNRCC has typically processed standard permits. Standard permitting will now be available to grandfathered facilities under the TNRCC's current practice and procedure. Does that clearly express our agreement and intent?

ALLEN: TNRCC is currently issuing standard permits which require BACT. Under our bill they are going to issue standard permits for grandfathered facilities requiring BACT. So in that way the standard permits will be the same. The notice and comment regulations and all of those other things should be the same on both permits and both should mirror the current practice of current law. So I believe that is correct.

ZBRANEK: That is exactly right. On the fee trebling provision, as part of our negotiations on closing the loophole for grandfathered facilities, the compromise is embodied in Section 382.0621(d), the date certain was dropped and it was agreed that a trebling of the fee each year after September 1, 2001, for each ton of emissions over 4,000 tons per year. For the sake of clarity, it is our intent that for the year September 1, 2001, the fee is $26, the following year, September 1, 2002, it will be $78 per ton over 4,000 tons, the following year, September 1, 2003, it will be $234 per ton over 4,000 tons, and continue in that manner, such that after September 1, 2010, the fee would be $511,758 per ton over 4,000 tons for any facility not permitted and continuing trebling in like manner.

ALLEN: I didn't check the math . . .

ZBRANEK: Assuming my math is correct.

ALLEN: It is an escalating fee and I believe you have described it correctly as I understand it.

ZBRANEK: Does that clearly express our agreement and intent?

ALLEN: As best I understand it, that is correct.

REMARKS ORDERED PRINTED

Representative Zbranek moved to print remarks by Representative Allen and Representative Zbranek.

The motion prevailed without objection.

SB 766 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE CHISUM: Under Section 9 of the bill, it is my understanding that if a grandfathered facility has a permit application pending with the TNRCC before September 1, 2001, that the fees imposed on emissions over 4,000 tons from that facility after September 1, 2001, would not apply.

REMARKS ORDERED PRINTED

Representative Chisum moved to print remarks by Representative Allen and Representative Chisum.

The motion prevailed without objection.

Representative Allen moved to adopt the conference committee report on **SB 766**.

The motion prevailed. (Burnam recorded voting no)

HR 1357 - ADOPTED
(by Sadler)

The following privileged resolution was laid before the house:

HR 1357

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 **SB 4**, relating to public school finance, property tax relief, and public education, and making an appropriation, to consider and take action on the following matters:

(1) House Rule 13, Section 9(a)(2), is suspended to permit the committee to omit language making Section 42.158, Education Code, as added by the Act, take effect September 1, 2000.

Explanation: This change is necessary to provide for the instructional facilities allotment under Section 42.158, Education Code, as added by the Act, to take effect September 1, 1999, rather than September 1, 2000.

(2) House Rule 13, Section 9(a)(1), is suspended to permit the committee to change text in added Section 42.158, Education Code, to read as follows:

Sec. 42.158. NEW INSTRUCTIONAL FACILITY ALLOTMENT. (a) A school district is entitled to an additional allotment as provided by this section for operational expenses associated with opening a new instructional facility.

(b) For the first school year in which students attend a new instructional facility, a school district is entitled to an allotment of $250 for each student in average daily attendance at the facility. For the second school year in which students attend that instructional facility, a school district is entitled to an allotment of $250 for each additional student in average daily attendance at the facility.

(c) For purposes of this section, the number of additional students in average daily attendance at a facility is the difference between the number of students in average daily attendance in the current year at that facility and the number of students in average daily attendance at that facility in the preceding year.

(d) The amount appropriated for allotments under this section may not exceed $25 million in a school year. If the total amount of allotments to which districts are entitled under this section for a school year exceeds the amount appropriated for allotments under this section, the commissioner shall

reduce each district's allotment under this section in the manner provided by Section 42.253(h).

(e) A school district that is required to take action under Chapter 41 to reduce its wealth per student to the equalized wealth level is entitled to a credit, in the amount of the allotments to which the district is entitled under this section, against the total amount required under Section 41.093 for the district to purchase attendance credits. A school district that is otherwise ineligible for state aid under this chapter is entitled to receive allotments under this section.

(f) The commissioner may adopt rules necessary to implement this section.

(g) In this section, "instructional facility" has the meaning assigned by Section 46.001.

Explanation: This change is necessary to provide for an instructional facilities allotment under Section 42.158, Education Code, at an amount lower than the amount in either the senate or house version of the bill.

(3) House Rule 13, Section 9(a)(1), is suspended to permit the committee to amend the definition of "GL" under Section 42.302(a), Education Code, to read as follows:

"GL" is the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort, which is $24.99 [~~$21~~] or a greater amount for any year provided by appropriation;

Explanation: This change is necessary to provide for a guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302, Education Code, at an amount higher than the amount in either the senate or house version of the bill.

(4) House Rule 13, Section 9(a)(1), is suspended to permit the committee to amend Section 21.402(c), Education Code, to read as follows:

(c) The salary factors per step are as follows:

Years Experience	0	1	2	3	4
Salary Factor	.5596	.5728	.5861	.5993	.6272
	[~~.8470~~]	[~~.8699~~]	[~~.8928~~]	[~~.9156~~]	[~~.9639~~]
Years Experience	5	6	7	8	9
Salary Factor	.6552	.6831	.7091	.7336	.7569
	[~~1.0122~~]	[~~1.0605~~]	[~~1.1054~~]	[~~1.1477~~]	[~~1.1879~~]
Years Experience	10	11	12	13	14
Salary Factor	.7787	.7996	.8192	.8376	.8552
	[~~1.2256~~]	[~~1.2616~~]	[~~1.2955~~]	[~~1.3273~~]	[~~1.3578~~]
Years Experience	15	16	17	18	19
Salary Factor	.8717	.8874	.9021	.9160	.9293
	[~~1.3862~~]	[~~1.4133~~]	[~~1.4387~~]	[~~1.4628~~]	[~~1.4857~~]
Years Experience	20 and over				
Salary Factor	.9418				
	[~~1.5073~~]				

Explanation: This change is necessary to permit setting the salary factors for the minimum salary schedule for teachers, librarians, counselors, and nurses at a lower level than the level in either the senate or house version of the bill to reflect the higher guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302, Education Code.

(5) House Rule 13, Section 9(a)(4), is suspended to permit the committee to add SECTION 1.44 to read as follows:

SECTION 1.44. In addition to other amounts appropriated for the fiscal biennium ending August 31, 2001, the sum of $60 million is appropriated, for the fiscal year ending August 31, 2000, from the general revenue fund to the Texas Education Agency for purposes of the foundation school program, and the unexpended balance of that appropriation is appropriated, for the fiscal year ending August 31, 2000, from the general revenue fund to the Texas Education Agency for the same purposes.

Explanation: This change is necessary to appropriate additional money for purposes of the foundation school program to cover the increased allotments under Chapters 42 and 46, Education Code.

HR 1357 was adopted without objection.

SB 4 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Sadler submitted the conference committee report on **SB 4**.

SB 4 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE LONGORIA: Mr. Sadler, you are aware that we had attached the phonics portion of the bill to **SB 4** and had it out of your committee on an eight to one vote, is that correct?

REPRESENTATIVE SADLER: That is correct. Your bill . . . which I accepted on the floor.

LONGORIA: Yes, sir. You had also been informed and aware that there were over 120 members on this house floor that supported the attachment of that amendment, were you not?

SADLER: Yes, sir.

LONGORIA: Would you agree with me that that kind of support would've required or demanded that there be a significant effort on your part or the members of the conference committee to keep that portion of the bill intact, keep it from being removed from the bill?

SADLER: As I discussed with you and Mr. Howard, I thought a vote by the house to embrace . . . the vote was on Mr. Howard's proposal, of course I accepted yours immediately after that . . . .

LONGORIA: Yes, sir.

SADLER: . . . required the conference committee on the part of the house to defend the bill and defend that provision.

LONGORIA: Chairman Sadler, with that fact in mind, you are aware and you have informed me that the phonics portion was removed from the bill, right?

SADLER: Yes, sir.

LONGORIA: In meeting with you, you informed me that you had done what you could to protect the portion. Are you aware that Senator Bivins has informed me that the members of the house conference committee did not advocate, at all, keeping phonics on the bill?

SADLER: Well, I'm sorry if he told you that. That's incorrect.

LONGORIA: Are you aware that I had sought conference or the participation of the house leadership in reference to Rule 13, Section 8 in instructing the conference committee that it was to protect the phonics portion of the bill?

SADLER: I recall you doing that the night of the debate.

LONGORIA: And are you aware that as a matter of respect for the process and for the leadership, I did not make the request that the conference committee be instructed?

SADLER: I'm aware that you did not.

LONGORIA: And in that same line, sir, you are saying to this house and to me in particular, that you did in fact advocate keeping phonics in the bill.

SADLER: Yes, sir. I had a specific conversation with Mr. Bivins, as I've explained to the members of this body. What we did was each conference committee set out, individually as you recall, it is a senate bill and Senator Bivins is required to call the meeting, he's chairman of the conference committee. He did not call a public hearing until yesterday. Prior to that, I sat down with the conferees within the house and we went through the amendments adopted by the house. We highlighted those amendments and sent them to the senate. They likewise highlighted their amendments and a review of our amendments and sent them to us. Those amendments that the senate readily agreed on went straight to the drafting and were adopted and are part of this bill. Those that were not were made up in a separate list to which he and I discussed privately, as well as with some members of the conference committee of both the senate and house. He informed me immediately that he did not believe, just as I have stated on this floor, that we should be in the process of writing curriculum, nor should we be in the process of methodology, and that that should be left to the state board of education. . . . And that it was not part of the school finance bill, it was not part of the issues that were in the core bill, and that he objected to them being in there. We then had the discussion, and I informed him that we had had a straight up and down vote on the issue of Mr. Howard's amendment. Mr. Howard's amendment, as you recall, went on over my objection, and that I had a vote by the house in acceptance of the phonics program, and that I had accepted your amendment. He indicated to me, nevertheless, that it was his will as well as the will of the senate conferees, that we not move into areas of curriculum or methodology during the conference committee. Now as you also know, Judge Longoria, over the last three or four days, we have not exactly been idle. And the core of this bill, as I informed you before we started the debate and other members of this body, that the core of this bill dealt with school finance, property tax, teacher pay, and some very specific school programs. And that in the event that any one of those amendments that were offered which did not relate to those core events had the chance of torpedoeing the bill and shutting down 1,040 school districts that I did not intend to sacrifice four million children because of one amendment that was a bill that was heard in either my committee or killed in his committee. And so at nine o'clock last night when we reached the final agreement, I

took out that list one last time. I went down that list item by item with him in an attempt to reach a last agreement, and we came up with the list that we have here. And that's what I'm bringing back to this body. If that is not sufficient, I apologize to you, but that is the process that I went through.

LONGORIA: Well, since neither Mr. Howard nor I were on the conference committee, despite our interest in that bill, we have to accept your word on it. You have previously shown me integrity and I accept what you're saying. I can only tell you that the senator's observations were . . . they do differ slightly, although he did indicate that he accepted responsibility because he pretty well took the position that you indicated that he took. My problem and frustration, to be blunt, is that I had access to a rule that would've instructed the committee and in my effort to be what I call a team player or to show respect for the process, I think I made a very, very serious mistake of judgement.

REMARKS ORDERED PRINTED

Representative Longoria moved to print his remarks on **SB 4**.

The motion prevailed without objection.

Representative Sadler moved to adopt the conference committee report on **SB 4**.

The motion prevailed. (Chavez, Cook, Counts, Cuellar, Deshotel, Gutierrez, Flores, Hinojosa, Hodge, Homer, Junell, Lengefeld, R. Lewis, Najera, Noriega, Pickett, Ritter, and J. F. Solis recorded voting yes; Longoria and Wilson, no)

The speaker stated that **SB 4** was passed subject to the provisions of Article III, Section 49a, of the Texas Constitution.

HR 1341 - ADOPTED
(by McCall)

The following privileged resolution was laid before the house:

HR 1341

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 between the house and senate versions of **SB 441**, relating to tax exemptions and credits, 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 text incorporating a new Section 10 of the bill, amending Section 171.002(d), Tax Code, to read as follows:

SECTION 10. Section 171.002(d), Tax Code, is amended to read as follows:

(d) A [~~If the amount of tax computed for a corporation is less than $100, the~~] corporation is not required to pay any tax [~~that amount~~] and is not considered to owe any tax for a [~~that~~] period if:

(1) the amount of tax computed for the corporation is less than $100; or

(2) the amount of the corporation's gross receipts:

(A) from its entire business under Section 171.105 is less than $150,000; and

(B) from its entire business under Section 171.1051, including the amount excepted under Section 171.1051(a), is less than $150,000.

Explanation: This change is necessary to provide an exemption for certain small corporations from the franchise tax.

(2) House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to add text incorporating a new Section 11 of the bill, amending Section 171.203(a), Tax Code, to read as follows:

SECTION 11. Section 171.203(a), Tax Code, is amended to read as follows:

(a) A corporation on which the franchise tax is imposed, regardless of whether the corporation is required to pay any tax, shall file a report with the comptroller containing:

(1) the name of each corporation in which the corporation filing the report owns a 10 percent or greater interest and the percentage owned by the corporation;

(2) the name of each corporation that owns a 10 percent or greater interest in the corporation filing the report;

(3) the name, title, and mailing address of each person who is an officer or director of the corporation on the date the report is filed and the expiration date of each person's term as an officer or director, if any;

(4) the name and address of the agent of the corporation designated under Section 171.354 of this code; and

(5) the address of the corporation's principal office and principal place of business.

Explanation: This change is necessary to provide that certain corporations exempt from the franchise tax are subject to a limited reporting requirement.

(3) House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to add text incorporating a new Section 12 of the bill, amending Section 171.204, Tax Code, to read as follows:

SECTION 12. Section 171.204, Tax Code, is amended to read as follows:

Sec. 171.204. INFORMATION REPORT. (a) Except as provided by Subsection (b), to [~~To~~] determine eligibility for the exemption provided by Section 171.2022, or to determine the amount of the franchise tax or the correctness of a franchise tax report, the comptroller may require an officer of a corporation that may be subject to the tax imposed under this chapter to file an information report with the comptroller stating the amount of the corporation's taxable capital and earned surplus, or any other information the comptroller may request.

(b) The comptroller may require an officer of a corporation that does not owe any tax because of the application of Section 171.002(d)(2) to file an abbreviated information report with the comptroller stating the amount of the corporation's gross receipts from its entire business. The comptroller may not

require a corporation described by this subsection to file an information report that requires the corporation to report or compute its earned surplus or taxable capital.

Explanation: This change is necessary to provide that certain corporations exempt from the franchise tax are subject to a limited reporting requirement.

(4) House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to add text incorporating a new Section 13 of the bill, adding Subchapter N, Chapter 171, Tax Code, to read as follows:

SECTION 13. Chapter 171, Tax Code, is amended by adding Subchapter N to read as follows:

SUBCHAPTER N. TAX CREDIT FOR ESTABLISHING DAY-CARE CENTER OR PURCHASING CHILD-CARE SERVICES

Sec. 171.701. DEFINITIONS. In this subchapter:

(1) "Day-care center" has the meaning assigned by Section 42.002, Human Resources Code.

(2) "Family home" has the meaning assigned by Section 42.002, Human Resources Code.

Sec. 171.702. CREDIT. A corporation that meets the eligibility requirements under this subchapter is entitled to a credit in the amount allowed by this subchapter against the tax imposed under this chapter.

Sec. 171.703. CREDIT FOR DAY-CARE CENTER AND PURCHASED CHILD CARE. (a) A corporation may claim a credit under this subchapter only for a qualifying expenditure relating to:

(1) the establishment and operation of a day-care center primarily to provide care for the children of employees of the corporation or of the corporation and one or more other entities sharing the costs of establishing and operating the center; or

(2) the purchase of child-care services that are actually provided to children of employees of the corporation at a:

(A) day-care center; or

(B) family home that is registered or listed with the Department of Protective and Regulatory Services under Chapter 42, Human Resources Code.

(b) A qualifying expenditure includes an expenditure for:

(1) planning the day-care center;

(2) preparing a site to be used for the day-care center;

(3) constructing the day-care center;

(4) renovating or remodeling a structure to be used for the day-care center;

(5) purchasing equipment necessary in the use of the day-care center and installed for permanent use in or immediately adjacent to the day-care center, including kitchen appliances and other food preparation equipment;

(6) expanding the day-care center;

(7) maintaining and operating the day-care center, including paying direct administration and staff costs; or

(8) purchasing all or part of child-care services that are actually provided to children of employees of the corporation at a day-care center or registered or listed family home.

(c) The amount of the credit is equal to the lesser of:

(1) $50,000;

(2) 50 percent of the corporation's qualifying expenditures; or

(3) the amount of the limitation provided by Section 171.705(b).

(d) If a corporation shares in the cost of establishing and operating a day-care center, the corporation is entitled to a credit for the qualifying expenditures made by that corporation, subject to the limitation prescribed by Subsection (c).

Sec. 171.704. APPLICATION FOR CREDIT. (a) A corporation must apply for a credit under this subchapter on or with the tax report for the period for which the credit is claimed.

(b) If the corporation is claiming a credit for a qualifying expenditure for purchasing child-care services, the corporation must maintain proof that the services were actually provided to children of employees of the corporation at a day-care center or registered or listed family home.

(c) The comptroller shall adopt a form for the application for the credit. A corporation must use this form in applying for the credit.

Sec. 171.705. PERIOD FOR WHICH CREDIT MAY BE CLAIMED. (a) A corporation may claim a credit under this subchapter for qualifying expenditures made during an accounting period only against the tax owed for the corresponding reporting period.

(b) A corporation may not claim a credit in an amount that exceeds 90 percent of the amount of tax due for the report.

Sec. 171.706. ASSIGNMENT PROHIBITED. A corporation may not convey, assign, or transfer the credit allowed under this subchapter to another entity unless all of the assets of the corporation are conveyed, assigned, or transferred in the same transaction.

Sec. 171.707. BIENNIAL REPORT BY COMPTROLLER. (a) Before the beginning of each regular session of the legislature, the comptroller shall submit to the governor, the lieutenant governor, and the speaker of the house of representatives a report that states:

(1) the total amount of qualifying expenditures incurred by corporations that claim a credit under this subchapter;

(2) the total amount of credits applied against the tax under this chapter and the amount of unused credits including:

(A) the total amount of franchise tax due by corporations claiming a credit under this subchapter before and after the application of the credit;

(B) the average percentage reduction in franchise tax due by corporations claiming a credit under this subchapter;

(C) the percentage of tax credits that were awarded to corporations with fewer than 100 employees; and

(D) the two-digit standard industrial classification of corporations claiming a credit under this subchapter;

(3) the geographical distribution of qualifying expenditures giving rise to a credit authorized by this subchapter;

(4) the impact of the credit provided by this subchapter on promoting economic development in this state; and

(5) the impact of the credit provided under this subchapter on state tax revenues.

(b) The final report issued prior to the expiration of this subchapter shall include historical information on the credit authorized under this subchapter.

(c) The comptroller may not include in the report information that is confidential by law.

(d) For purposes of this section, the comptroller may require a corporation that claims a credit under this subchapter to submit information, on a form provided by the comptroller, on the location of the corporation's qualifying expenditures and any other information necessary to complete the report required under this section.

Explanation: This change is necessary to provide a franchise tax credit for establishing a day-care center or purchasing child-care services.

(5) House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to add text incorporating a new Section 14 of the bill, adding Subchapter O, Chapter 171, Tax Code, to read as follows:

SECTION 14. Chapter 171, Tax Code, is amended by adding Subchapter O to read as follows:

SUBCHAPTER O. TAX CREDIT FOR CERTAIN RESEARCH AND DEVELOPMENT ACTIVITIES

Sec. 171.721. DEFINITIONS. In this subchapter:

(1) "Base amount," "basic research payment," and "qualified research expense" have the meanings assigned those terms by Section 41, Internal Revenue Code, except that all such payments and expenses must be for research conducted within this state.

(2) "Strategic investment area" means an area that is determined by the comptroller under Section 171.726 that is:

(A) a county within this state with above state average unemployment and below state average per capita income; or

(B) an area within this state that is a federally designated urban enterprise community or an urban enhanced enterprise community.

Sec. 171.722. ELIGIBILITY. (a) A corporation is eligible for a credit against the tax imposed under this chapter in the amount and under the conditions and limitations provided by this subchapter.

(b) A corporation may claim a credit under Section 171.723(d) or take a carryforward credit without regard to whether the strategic investment area in which it made qualified research expenses and basic research payments subsequently loses its designation as a strategic investment area.

Sec. 171.723. CALCULATION OF CREDIT. (a) The credit for any report equals five percent of the sum of:

(1) the excess of qualified research expenses incurred in this state during the period upon which the tax is based over the base amount for this state; and

(2) the basic research payments determined under Section 41(e)(1)(A), Internal Revenue Code, for this state during the period upon which the tax is based.

(b) A corporation may elect to compute the credit for qualified research expenses incurred in this state in a manner consistent with the alternative

incremental credit described in Section 41(c)(4), Internal Revenue Code, only if for the corresponding federal tax period:

(1) a federal election was made to compute the federal credit under Section 41(c)(4), Internal Revenue Code;

(2) the corporation was a member of a consolidated group for which a federal election was made under Section 41(c)(4), Internal Revenue Code; or

(3) the corporation did not claim the federal credit under Section 41(a)(1), Internal Revenue Code.

(c) For purposes of the alternate credit computation method in Subsection (b), the credit percentages applicable to qualified research expenses described in Sections 41(c)(4)(A)(i), (ii), and (iii), Internal Revenue Code, are 0.41 percent, 0.55 percent, and 0.69 percent, respectively.

(d) In computing the credit under this section, a corporation may multiply by two the amount of any qualified research expenses and basic research payments made in a strategic investment area.

(e) The burden of establishing entitlement to and the value of the credit is on the corporation.

(f) For the purposes of this section, "gross receipts" as used in Section 41, Internal Revenue Code, means gross receipts as determined under Section 171.1032.

Sec. 171.724. LIMITATIONS. (a) The total credit claimed under this subchapter for a report, including the amount of any carryforward credit under Section 171.725, may not exceed 50 percent of the amount of franchise tax due for the report before any other applicable tax credits.

(b) The total credit claimed under this subchapter and Subchapters P and Q for a report, including the amount of any carryforward credits, may not exceed the amount of franchise tax due for the report after any other applicable credits.

(c) A corporation that establishes its eligibility for a credit under this subchapter is not eligible to establish a credit under Subchapter P.

Sec. 171.725. CARRYFORWARD. If a corporation is eligible for a credit that exceeds the limitation under Section 171.724(a) or (b), the corporation may carry the unused credit forward for not more than 20 consecutive reports. A credit carryforward from a previous report is considered to be utilized before the current year credit.

Sec. 171.726. DETERMINATION OF STRATEGIC INVESTMENT AREAS. (a) Not later than September 1 each year, the comptroller shall determine areas that qualify as strategic investment areas using the most recently completed full calendar year data available on that date and, not later than October 1, shall publish a list and map of the designated areas.

(b) The designation is effective for the following calendar year for purposes of credits available under this subchapter.

Sec. 171.727. BIENNIAL REPORT BY COMPTROLLER. (a) Before the beginning of each regular session of the legislature, the comptroller shall submit to the governor, the lieutenant governor, and the speaker of the house of representatives a report that states:

(1) the total amount of expenses and payments incurred by corporations that claim a credit under this subchapter;

(2) the total amount of credits applied against the tax under this chapter and the amount of unused credits including:

(A) the total amount of franchise tax due by corporations claiming a credit under this subchapter before and after the application of the credit;

(B) the average percentage reduction in franchise tax due by corporations claiming a credit under this subchapter;

(C) the percentage of tax credits that were awarded to corporations with fewer than 100 employees; and

(D) the two-digit standard industrial classification of corporations claiming a credit under this subchapter;

(3) the geographical distribution of expenses and payments giving rise to a credit authorized by this subchapter;

(4) the impact of the credit provided by this subchapter on the amount of research and development performed in this state and employment in research and development in this state; and

(5) the impact of the credit provided under this subchapter on employment, capital investment, and personal income in this state and on state tax revenues.

(b) The final report issued prior to the expiration of this subchapter shall include historical information on the credit authorized under this subchapter.

(c) The comptroller may not include in the report information that is confidential by law.

(d) For purposes of this section, the comptroller may require a corporation that claims a credit under this subchapter to submit information, on a form provided by the comptroller, on the location of the corporation's research expenses and payments in this state and any other information necessary to complete the report required under this section.

Sec. 171.728. COMPTROLLER POWERS AND DUTIES. The comptroller shall adopt rules and forms necessary to implement this subchapter.

Sec. 171.729. EXPIRATION. (a) This subchapter expires December 31, 2009.

(b) The expiration of this subchapter does not affect the carryforward of a credit under Section 171.725 for those credits to which a corporation is eligible before the date this subchapter expires.

Sec. 171.730. TEMPORARY CREDIT RATES AND LIMITATIONS. (a) Notwithstanding any other provision of this subchapter, this section applies to a report originally due before January 1, 2002.

(b) For purposes of computing the credit under Section 171.723(a) for a report described by Subsection (a), the credit equals four percent of the sum of:

(1) the excess of qualified research expenses incurred in this state during the period upon which the tax is based over the base amount for this state; and

(2) the basic research payments determined under Section 41(e)(1)(A), Internal Revenue Code, for this state during the period upon which the tax is based.

(c) For purposes of computing the credit under Section 171.723(d) for a report described by Subsection (a), a corporation may multiply by 1.5 the

amount of any qualified research expenses and basic research payments made in a strategic investment area.

(d) The total credit claimed under this subchapter for a report described by Subsection (a), including the amount of any carryforward credit under Section 171.725, may not exceed 25 percent of the amount of franchise tax due for the report before any other applicable tax credits.

(e) For purposes of the alternate credit computation method in Section 171.723(b), the credit percentages applicable to qualified research expenses described in Sections 41(c)(4)(A)(i), (ii), and (iii), Internal Revenue Code, are 0.33 percent, 0.44 percent, and 0.55 percent, respectively.

(f) This section expires January 1, 2002.

(g) The expiration of this section does not affect the carryforward of a credit under Section 171.725 for those credits to which a corporation is eligible before the date this section expires.

Explanation: This change is necessary to provide a franchise tax credit for certain research and development activities.

(6) House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to add text incorporating a new Section 15 of the bill, adding Subchapter P, Chapter 171, Tax Code, to read as follows:

SECTION 15. Chapter 171, Tax Code, is amended by adding Subchapter P to read as follows:

SUBCHAPTER P. TAX CREDITS FOR CERTAIN OB CREATION ACTIVITIES

Sec. 171.751. DEFINITIONS. In this subchapter:

(1) "Agricultural processing" means an establishment primarily engaged in activities described in categories 2011-2099, 2211, 2231, or 3111-3199 of the 1987 Standard Industrial Classification Manual published by the federal Office of Management and Budget.

(2) "Central administrative offices" means an establishment primarily engaged in performing management or support services for other establishments of the same enterprise. An enterprise consists of all establishments having more than 50 percent common direct or indirect ownership.

(3) "County average weekly wage" means the average weekly wage for all covered employment in the county as computed by the Texas Workforce Commission.

(4) "Data processing" means an establishment primarily engaged in activities described in categories 7371-7379 of the 1987 Standard Industrial Classification Manual published by the federal Office of Management and Budget.

(5) "Distribution" means an establishment primarily engaged in activities described in categories 5012-5199 of the 1987 Standard Industrial Classification Manual published by the federal Office of Management and Budget.

(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) "Manufacturing" means an establishment primarily engaged in activities described in categories 2011-3999 of the 1987 Standard Industrial Classification Manual published by the federal Office of Management and Budget.

(8) "Qualified business" means an establishment primarily engaged in agricultural processing, central administrative offices, distribution, data processing, manufacturing, research and development, or warehousing.

(9) "Qualifying job" means a new permanent full-time job that:

(A) is located in:

(i) a strategic investment area; or

(ii) a county within this state with a population of less than 50,000, if the job is created by a business primarily engaged in agricultural processing;

(B) requires at least 1,600 hours of work a year;

(C) pays at least 110 percent of the county average weekly wage for the county where the job is located;

(D) is covered by a group health benefit plan for which the business pays at least 80 percent of the premiums or other charges assessed under the plan for the employee;

(E) is not transferred from one area in this state to another area in this state; and

(F) is not created to replace a previous employee.

(10) "Research and development" means an establishment primarily engaged in activities described in category 8731 of the 1987 Standard Industrial Classification Manual published by the federal Office of Management and Budget.

(11) "Strategic investment area" has the meaning assigned that term by Section 171.721.

(12) "Warehousing" means an establishment primarily engaged in activities described in categories 4221-4226 of the 1987 Standard Industrial Classification Manual published by the federal Office of Management and Budget.

Sec. 171.752. ELIGIBILITY. (a) A corporation is eligible for a credit against the tax imposed under this chapter if the corporation:

(1) is a qualified business as defined in Section 171.751;

(2) creates a minimum of 10 qualifying jobs; and

(3) pays an average weekly wage, for the year in which credits are claimed, of at least 110 percent of the county average weekly wage for the county where the qualifying jobs are located.

(b) A corporation may claim a credit or take a carryforward credit without regard to whether the strategic investment area in which it created the qualifying jobs subsequently loses its designation as a strategic investment area, if applicable.

Sec. 171.753. CALCULATION OF CREDIT. A corporation may establish a credit equal to 25 percent of the total wages and salaries paid by the corporation for qualifying jobs during the period upon which the tax is based.

Sec. 171.754. LENGTH OF CREDIT. The credit established shall be claimed in five equal installments of one-fifth the credit amount over the five consecutive reports beginning with the report based upon the period during which the qualifying jobs were created.

Sec. 171.755. LIMITATIONS. (a) The total credit claimed under this subchapter for a report, including the amount of any carryforward credit under Section 171.756, may not exceed 50 percent of the amount of franchise tax due for the report before any other applicable tax credits.

(b) The total credit claimed under this subchapter and Subchapters O and Q for a report, including the amount of any carryforward credits, may not exceed the amount of franchise tax due for the report after any other applicable credits.

(c) A corporation that establishes its eligibility for a credit under this subchapter is not eligible to establish a credit under Subchapter O.

Sec. 171.756. CARRYFORWARD. (a) If a corporation is eligible for a credit from an installment that exceeds the limitations under Section 171.755(a) or (b), the corporation may carry the unused credit forward for not more than five consecutive reports.

(b) A carryforward is considered the remaining portion of an installment that cannot be claimed in the current year because of the tax limitation under Section 171.755. A carryforward is added to the next year's installment of the credit in determining the tax limitation for that year. A credit carryforward from a previous report is considered to be utilized before the current year installment.

Sec. 171.757. CERTIFICATION OF ELIGIBILITY. (a) For the initial and each succeeding report in which a credit is claimed under this subchapter, the corporation shall file with its report, on a form provided by the comptroller, information that sufficiently demonstrates that the corporation is eligible for the credit and is in compliance with Section 171.752.

(b) The burden of establishing entitlement to and the value of the credit is on the corporation.

(c) If, in one of the five years in which the installment of a credit accrues, the number of the corporation's full-time employees falls below the number of full-time employees the corporation had in the year in which the corporation qualified for the credit, the credit expires and the corporation may not take any remaining installment of the credit.

(d) Notwithstanding Subsection (c), the corporation may, however, take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under Section 171.756.

Sec. 171.758. ASSIGNMENT PROHIBITED. A corporation may not convey, assign, or transfer the credit allowed under this subchapter to another entity unless all of the assets of the corporation are conveyed, assigned, or transferred in the same transaction.

Sec. 171.759. BIENNIAL REPORT BY COMPTROLLER. (a) Before the beginning of each regular session of the legislature, the comptroller shall

submit to the governor, the lieutenant governor, and the speaker of the house of representatives a report that states:

(1) the total number of jobs created by corporations that claim a credit under this subchapter and the average and median annual wage of those jobs;

(2) the total amount of credits applied against the tax under this chapter and the amount of unused credits including:

(A) the total amount of franchise tax due by corporations claiming a credit under this subchapter before and after the application of the credit;

(B) the average percentage reduction in franchise tax due by corporations claiming a credit under this subchapter; and

(C) the percentage of tax credits that were awarded to corporations with fewer than 100 employees;

(3) a breakdown of the two-digit standard industrial classification of businesses claiming a credit under this subchapter;

(4) the geographical distribution of the credits claimed under this subchapter; and

(5) the impact of the credit provided under this subchapter on employment, personal income, and capital investment in this state and on state tax revenues.

(b) The final report issued prior to the expiration of this subchapter shall include historical information on the credit authorized under this subchapter.

(c) The comptroller may not include in the report information that is confidential by law.

(d) For purposes of this section, the comptroller may require a corporation that claims a credit under this subchapter to submit information, on a form provided by the comptroller, on the location of the corporation's job creation in this state and any other information necessary to complete the report required under this section.

(e) The comptroller shall provide notice to the members of the legislature that the report required under this section is available on request.

Sec. 171.760. COMPTROLLER POWERS AND DUTIES. The comptroller shall adopt rules and forms necessary to implement this subchapter.

Sec. 171.761. EXPIRATION. (a) This subchapter expires December 31, 2009.

(b) The expiration of this subchapter does not affect the carryforward of a credit under Section 171.756 or those credits for which a corporation is eligible before the date this subchapter expires.

Explanation: This change is necessary to provide a franchise tax credit for certain job creation activities.

(7) House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to add text incorporating a new Section 16 of the bill, adding Subchapter Q, Chapter 171, Tax Code, to read as follows:

SECTION 16. Chapter 171, Tax Code, is amended by adding Subchapter Q to read as follows:

SUBCHAPTER Q. TAX CREDITS FOR CERTAIN CAPITAL INVESTMENTS

Sec. 171.801. DEFINITIONS. In this subchapter:

(1) "Agricultural processing," "central administrative offices," "county average weekly wage," "data processing," "distribution," "manufacturing," "qualified business," "research and development," and "warehousing" have the meanings assigned those terms by Section 171.751.

(2) "Qualified capital investment" means tangible personal property first placed in service in a strategic investment area, or first placed in service in a county with a population of less than 50,000 by a corporation primarily engaged in agricultural processing, and that is described in Section 1245(a), Internal Revenue Code, such as engines, machinery, tools, and implements used in a trade or business or held for investment and subject to an allowance for depreciation, cost recovery under the accelerated cost recovery system, or amortization. The term does not include real property or buildings and their structural components. Property that is leased under a capitalized lease is considered a "qualified capital investment," but property that is leased under an operating lease is not considered a "qualified capital investment." Property expensed under Section 179, Internal Revenue Code, is not considered a "qualified capital investment."

(3) "Strategic investment area" has the meaning assigned that term by Section 171.721.

Sec. 171.802. ELIGIBILITY. (a) A qualified business is eligible for a credit against the tax imposed under this chapter in the amount and under the conditions and limitations provided by this subchapter.

(b) To qualify for the credit authorized under this subchapter, a qualified business must:

(1) pay an average weekly wage, at the location with respect to which the credit is claimed, that is at least 110 percent of the county average weekly wage;

(2) offer coverage to all full-time employees at the location with respect to which the credit is claimed by a group health benefit plan, as defined by Section 171.751, for which the business pays at least 80 percent of the premiums or other charges assessed under the plan for the employees; and

(3) make a minimum $500,000 qualified capital investment.

(c) A corporation may claim a credit or take a carryforward credit without regard to whether the strategic investment area in which it made the qualified capital investment subsequently loses its designation as a strategic investment area, if applicable.

Sec. 171.803. CALCULATION OF CREDIT. A corporation may establish a credit equal to 7.5 percent of the qualified capital investment during the period upon which the tax is based.

Sec. 171.804. LENGTH OF CREDIT. The credit established shall be claimed in five equal installments of one-fifth the credit amount over the five consecutive reports beginning with the report based upon the period during which the qualified capital investment was made.

Sec. 171.805. LIMITATIONS. (a) The total credit claimed under this subchapter for a report, including the amount of any carryforward credit under Section 171.806, may not exceed 50 percent of the amount of franchise tax due for the report before any other applicable tax credits.

(b) The total credit claimed under this subchapter and Subchapters O and P for a report, including the amount of any carryforward credits, may not exceed the amount of franchise tax due for the report after any other applicable tax credits.

(c) A corporation that establishes its eligibility for a credit under this subchapter is not eligible to claim a franchise tax reduction authorized under Section 171.1015.

Sec. 171.806. CARRYFORWARD. (a) If a corporation is eligible for a credit from an installment that exceeds the limitation under Section 171.805(a) or (b), the corporation may carry the unused credit forward for not more than five consecutive reports.

(b) A carryforward is considered the remaining portion of an installment that cannot be claimed in the current year because of the tax limitation under Section 171.805. A carryforward is added to the next year's installment of the credit in determining the tax limitation for that year. A credit carryforward from a previous report is considered to be utilized before the current year installment.

Sec. 171.807. CERTIFICATION OF ELIGIBILITY. (a) For the initial and each succeeding report in which a credit is claimed under this subchapter, the corporation shall file with its report, on a form provided by the comptroller, information that sufficiently demonstrates that the corporation is eligible for the credit and is in compliance with Section 171.802.

(b) The burden of establishing entitlement to and the value of the credit is on the qualified business.

(c) A credit expires under this subchapter and the corporation may not take any remaining installment of the credit if in one of the five years in which the installment of a credit accrues, the qualified business:

(1) disposes of the qualified capital investment;

(2) takes the qualified capital investment out of service;

(3) moves the qualified capital investment out of this state; or

(4) fails to pay an average weekly wage as required by Section 171.802.

(d) Notwithstanding Subsection (c), the corporation may take the portion of an installment that accrued in a previous year and was carried forward to the extent permitted under Section 171.806.

Sec. 171.808. ASSIGNMENT PROHIBITED. A corporation may not convey, assign, or transfer the credit allowed under this subchapter to another entity unless all of the assets of the corporation are conveyed, assigned, or transferred in the same transaction.

Sec. 171.809. BIENNIAL REPORT BY COMPTROLLER. (a) Before the beginning of each regular session of the legislature, the comptroller shall submit to the governor, the lieutenant governor, and the speaker of the house of representatives a report that states:

(1) the total amount of qualified capital investments made by corporations that claim a credit under this subchapter and the average and median wages paid by those corporations;

(2) the total amount of credits applied against the tax under this chapter and the amount of unused credits, including:

(A) the total amount of franchise tax due by corporations claiming a credit under this subchapter before and after the application of the credit;

(B) the average percentage reduction in franchise tax due by corporations claiming a credit under this subchapter;

(C) the percentage of tax credits that were awarded to corporations with fewer than 100 employees; and

(D) the two-digit standard industrial classification of corporations claiming a credit under this subchapter;

(3) the geographical distribution of the qualified capital investments on which tax credit claims are made under this subchapter; and

(4) the impact of the credit provided under this subchapter on employment, capital investment, personal income, and state tax revenues.

(b) The final report issued before the expiration of this subchapter shall include historical information on the credit authorized under this subchapter.

(c) The comptroller may not include in the report information that is confidential by law.

(d) For purposes of this section, the comptroller may require a corporation that claims a credit under this subchapter to submit information, on a form provided by the comptroller, on the location of the corporation's capital investment in this state and any other information necessary to complete the report required under this section.

(e) The comptroller shall provide notice to the members of the legislature that the report required under this section is available on request.

Sec. 171.810. COMPTROLLER POWERS AND DUTIES. The comptroller shall adopt rules and forms necessary to implement this subchapter.

Sec. 171.811. EXPIRATION. (a) This subchapter expires December 31, 2009.

(b) The expiration of this subchapter does not affect the carryforward of a credit under Section 171.806 or those credits for which a corporation is eligible before the date this subchapter expires.

Explanation: This change is necessary to provide a franchise tax credit for certain capital investments.

(8) House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to add text incorporating a new Section 17 of the bill, adding Subchapter R, Chapter 171, Tax Code, to read as follows:

SECTION 17. Chapter 171, Tax Code, is amended by adding Subchapter R to read as follows:

SUBCHAPTER R. TAX CREDIT FOR CONTRIBUTIONS TO BEFORE AND AFTER SCHOOL PROGRAMS

Sec. 171.831. DEFINITION. In this subchapter, "school-age child care" means care provided before and after school and during the summer and holidays for children who are at least five years of age but younger than 14 years of age.

Sec. 171.832. CREDIT. A corporation that meets the eligibility requirements under this subchapter is entitled to a credit in the amount allowed by this subchapter against the tax imposed under this chapter.

Sec. 171.833. EXPENDITURES ELIGIBLE FOR CREDIT. (a) A

corporation may claim a credit under this subchapter only for a qualifying expenditure relating to the operation of a school-age child care program that is operated by:

(1) a nonprofit organization licensed under Chapter 42, Human Resources Code;

(2) a nonprofit, accredited educational facility or by another nonprofit entity under contract with the educational facility, if the Texas Education Agency or Southern Association of Colleges and Schools has approved the curriculum content of the program operated under the contract; or

(3) a county or municipality, if the governing body of the county or municipality annually adopts standards of care by order or ordinance that include minimum child-to-staff ratios, staff qualifications, facility, health, and safety standards, and mechanisms for monitoring and enforcing the standards.

(b) A qualifying expenditure includes an expenditure for:

(1) constructing, renovating, or remodeling a facility or structure to be used by the program;

(2) purchasing necessary equipment, supplies, or food to be used in the program; or

(3) operating the program, including administrative and staff costs.

Sec. 171.834. AMOUNT; LIMITATIONS. (a) The amount of the credit is equal to 30 percent of a corporation's qualifying expenditures.

(b) A corporation may claim a credit under this subchapter for a qualifying expenditure during an accounting period only against the tax owed for the corresponding reporting period.

(c) A corporation may not claim a credit in an amount that exceeds 50 percent of the amount of net franchise tax due, after applying any other credits, for the reporting period.

Sec. 171.835. APPLICATION FOR CREDIT. (a) A corporation must apply for a credit under this subchapter on or with the tax report for the period for which the credit is claimed.

(b) The comptroller shall adopt a form for the application for the credit. A corporation must use this form in applying for the credit.

Sec. 171.836. ASSIGNMENT PROHIBITED. A corporation may not convey, assign, or transfer a credit allowed under this subchapter to another entity unless all of the assets of the corporation are conveyed, assigned, or transferred in the same transaction.

Explanation: This change is necessary to provide a franchise tax credit for contributions to before and after school programs.

(9) House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to add text incorporating a new Section 18 of the bill to read as follows:

SECTION 18. The comptroller may combine the reports required under Subchapters N, O, P, and Q, Chapter 171, Tax Code, as added by this Act, into a single report.

Explanation: This change is necessary to allow the comptroller to combine certain required franchise tax reports into a single report.

(10) House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to add text incorporating a new Section 19 of the bill to read as follows:

SECTION 19. (a) Before the beginning of the 79th Legislature, Regular Session, the comptroller of public accounts shall report to the legislature and the governor on the effect that exempting small corporations from the franchise tax under Section 171.002, Tax Code, as amended by this Act, has had on the economy of this state, including on the creation of new jobs in this state.

(b) The report must include:

(1) an assessment of the intended purposes of the exemptions and whether the exemptions are achieving those objectives;

(2) an assessment of whether the exemptions have created any problems in the administration of the franchise tax; and

(3) a recommendation for retaining, eliminating, or amending the exemptions.

(c) The comptroller of public accounts may include the report in any other report made to the legislature.

Explanation: This change is necessary to require the comptroller to prepare a report on the effect of the change in the exemption for small corporations from the franchise tax.

(11) House Rule 13, Sections 9(a)(3) and (4), are suspended to permit the committee to add text incorporating a new Section 20 of the bill, providing effective date and transitional provisions, to read as follows:

SECTION 20. (a) Except as otherwise provided by this section, this Act takes effect October 1, 1999.

(b) The changes in law made by this Act by amending Section 151.3111(b), Tax Code, and adding Section 151.326, Tax Code, take effect on the earliest day that they may take effect under Section 39, Article III, Texas Constitution. The comptroller of public accounts may adopt emergency rules for the implementation of those provisions.

(c) The changes in law made by this Act by amending Section 151.313(a), Tax Code, take effect April 1, 2000.

(d) The changes in law made by this Act by amending Sections 171.002(d), 171.203(a), and 171.204, Tax Code, and adding Subchapters N, O, P, Q, and R, Chapter 171, Tax Code, take effect January 1, 2000, and apply only to a report originally due on or after that date.

(e) A corporation may claim a credit under Subchapters N, O, P, Q, and R, Chapter 171, Tax Code, as added by this Act, only for expenses and payments incurred, qualified investments or expenditures made, or new jobs created on or after January 1, 2000.

(f) The changes in law made by this Act do not affect taxes imposed before the effective date of those changes, and the law in effect before the effective date of those changes is continued in effect for purposes of the liability for and collection of those taxes.

Explanation: This change is necessary to provide for the effective date of certain changes to law made by the bill and to provide transition provisions for certain changes to law made by the bill.

HR 1341 was adopted without objection.

SB 441 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative McCall submitted the conference committee report on **SB 441**.

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. 4 and 5).

HCR 316 - ADOPTED
(by Hinojosa)

The following privileged resolution was laid before the house:

HCR 316

WHEREAS, **HB 3457** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

WHEREAS, The bill contains a technical error that should be corrected; now, therefore, be it

RESOLVED by the 76th Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to correct House Bill No. 3457, in SECTION 1 of the bill, in the last sentence of added Section 8(d), Chapter 550, Acts of the 63rd Legislature, Regular Session, 1973 (Article 2372p-3, Vernon's Texas Civil Statutes)(conference committee report page 2, line 11), by striking "48" and substituting "36".

HCR 316 was adopted without objection.

HCR 317 - ADOPTED
(by Dunnam, McCall, Sadler, Junell, Y. Davis, and Gallego)

Representative Dunnam moved to suspend all necessary rules to take up and consider at this time **HCR 317**.

The motion prevailed.

The following resolution was laid before the house:

HCR 317

WHEREAS, **SB 441** contains a franchise tax credit for expenditures relating to before and after school programs for children who are at least five years of age but younger than 14 years of age; and

WHEREAS, The franchise tax provision allows a corporation to claim an expenditure only for constructing, renovating, or remodeling a facility for the before and after school program, for purchasing necessary equipment, supplies, or food only to be used in that before and after school program, and for operating the program, including administrative and staff costs; and

THEREFORE, BE IT RESOLVED BY THE 76TH LEGISLATURE, REGULAR SESSION, that:

(1) the provision is not a voucher program and does not provide any tax assistance for private school tuition of any kind, including tuition for a before or after school program;

(2) the provision does not support programs conducted during regular school hours; and

(3) the comptroller shall interpret and enforce the provision strictly and narrowly to ensure that a corporation receive a tax credit under the provision only if the recipient uses the facilities, equipment, supplies, food, administrative services, staff services, and other permitted expenditures for the primary purpose of supporting the before and after school program and that the corporation is not eligible for the credit if the corporation cannot establish that the facilities, equipment, supplies, food, administrative services, staff services, and other permitted expenditures are primarily used for the before and after school program.

HCR 317 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE S. TURNER: Representative Dunnam, you are putting forth that **HCR 317** because, as I understand it, of its ambiguity as it relates to **SB 441** and the pre and after-school programs, it that correct?

REPRESENTATIVE DUNNAM: Yes sir, there is obviously some ambiguity because we have a lot of people on the floor that question the meaning of what "related to" means, and we do have a comptroller's opinion. Of course the comptroller can change and the comptroller's interpretation can change. We want to try to ensure as best we can that we go into current comptroller interpretations of that term.

S. TURNER: So in order to clear, in order to give clearer meaning to the ambiguity that exists currently in **SB 441**, your regulation is to provide the clearer intent of this 76th Legislature as to what the words on that paper actually mean, correct?

DUNNAM: Yes, sir.

S. TURNER: And it is your intent in the **HCR 317** to make it clear to any person or entity that reads **SB 441** to the extent that it becomes law, is that its interpretation should be narrow in scope, is that correct?

DUNNAM: It could be strictly and narrowly construed based on the primary purpose type limitation.

S. TURNER: And it's your intent in the **HCR 317** as it relates to **SB 441**—specifically as it relates to the pre- and after-school programs—that in no shape or form or fashion is **SB 441** to be interpreted as a voucher program?

DUNNAM: That would include vouchers for facilities which is really what my concern that this bill was.

S. TURNER: And the primary emphasis of **SB 441**, as it relates to the pre- and after-school programs, is it pretty much relates to children in the public programs or public facilities that are joint venturing or partnering or contracting with a private entity, is that correct?

DUNNAM: That would be my intention.

S. TURNER: And by passage of **HCR 317**, it is your intent for that to become the clear intent of the 76th Legislature?

DUNNAM: Yes.

REPRESENTATIVE DUTTON: As further clarification, Representative Dunnam, is it your intent that a private school which is receiving this money could not lower their tuition in regards to having received this kind of money?

DUNNAM: Yes.

DUTTON: So if a private school would receive the money and reduce their tuition as result of this, that would be in violation at least with this resolution?

DUNNAM: I think that would be a subterfuge on the tax laws in an attempt to get around the clear intent of what I think **SB 441** will be after this HCR is adopted.

DUTTON: And it's your intent that this resolution would cover both indirect as well as direct application?

DUNNAM: Yes, and that's why we specifically put on line 18, "strictly and narrowly construed," because we want to make sure that this is not used as a vehicle to in any way get around the clear intent of this statute and accompanying resolution.

REMARKS ORDERED PRINTED

Representative Dutton moved to print **HCR 317** in full, as well as remarks by Representative S. Turner, Representative Dutton, and Representative Dunnam.

The motion prevailed without objection.

A record vote was requested.

HCR 317 was adopted by (Record 537): 119 Yeas, 24 Nays, 1 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; Crabb; Cuellar; Davis, J.; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; Giddings; Glaze; Goodman; Gray; Greenberg; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hawley; Heflin; Hilbert; Hilderbran; Hinojosa; Hochberg; Hodge; Homer; Hope; Hunter; Janek; Jones, C.; Jones, J.; Junell; Keel; Keffer; King, T.; Kuempel; Lewis, G.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Merritt; Moreno, J.; Moreno, P.; Morrison; Naishtat; Najera; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Rangel; Reyna, A.; Ritter; Sadler; Salinas; Seaman; Siebert; Smith; Smithee; 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; Wolens; Yarbrough; Zbranek.

Nays — Carter; Craddick; Culberson; Delisi; Denny; Elkins; George; Goolsby; Green; Hartnett; Hill; Howard; Hupp; Isett; King, P.; Krusee; Mowery; Nixon; Palmer; Reyna, E.; Shields; Talton; Wohlgemuth; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Crownover; Jones, D.

Absent — Corte; Danburg; Lengefeld; Lewis, R.

STATEMENT OF VOTE

When Record No. 537 was taken, I was in the house but away from my desk. I would have voted yes.

Lengefeld

SB 441 - LETTER FROM THE COMPTROLLER

May 30, 1999

The Honorable James E. "Pete" Laney
and Members of the 76th Legislature
State Capitol
Austin, TX 78701

Dear Mr. Speaker and Members:

A question has arisen regarding section 17 of the conference committee report on **SB 441**, the tax relief bill.

This evening's floor debate in the House of Representatives has included considerable discussion about how my office would administer this section. First of all, let me tell you that I do not see this as a voucher program. Our fiscal note of this section of the bill shows that. We don't see it as a voucher program and will not administer it in that way.

Second, the expenditures that a corporation would make under this section would have to be primarily for child care and latch-key before-and-after school programs. Making only minimal use of a playscape, for example, for the program, while allowing regular school hours use of that same equipment for most of the day, would not count. We currently look at primary and predominant use of items in many situations involving tax law, such as electricity used in manufacturing. We have done this by rule, and our policies have been upheld by the courts. This would be the manner in which I would administer this tax credit.

If I can be of any additional assistance, please let me know.

Sincerely,

Carole Keeton Rylander
Comptroller of Public Accounts

REMARKS ORDERED PRINTED

Representative McCall moved to print the comptroller's letter on **SB 441**.

The motion prevailed without objection.

SB 441 - CONFERENCE COMMITTEE REPORT
(consideration continued)

Representative McCall moved to adopt the conference committee report on **SB 441**.

The motion prevailed.

SB 441 - VOTE RECONSIDERED

Representative McCall moved to reconsider the vote by which the house adopted the conference committee report on **SB 441**.

The motion to reconsider prevailed.

Representative McCall moved to adopt the conference committee report on **SB 441**.

A record vote was requested.

The motion prevailed by (Record 538): 144 Yeas, 1 Nay, 3 Present, not voting.

Yeas — Alexander; Allen; Alvarado; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; 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, 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; 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.

Nay — Lewis, G.

Present, not voting — Mr. Speaker(C); Burnam; Reyna, A.

Absent, Excused — Crownover; Jones, D.

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. 39).

ADJOURNMENT

Representative Garcia moved that the house adjourn until 1:30 p.m. tomorrow in memory of Tiffany Hickey of the Cockrell Hill Police Department who died in the line of duty this morning.

The motion prevailed without objection.

The house accordingly, at 10:56 p.m., adjourned until 1:30 p.m. tomorrow.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HR 1309 (by Uher), Commemorating the 30th anniversary of the Star of the Republic Museum.
To Rules & Resolutions.

HR 1312 (by Morrison), Congratulating William Eugene and Vesta Williams on their 50th wedding anniversary.
To Rules & Resolutions.

HR 1313 (by Morrison), In memory of Adele D. Lucas.
To Rules & Resolutions.

HR 1319 (by Pitts), Congratulating Dr. Joy Shaw on being named 1999 Red Oak Citizen of the Year.
To Rules & Resolutions.

HR 1322 (by Shields), Recognizing Redland Oaks Elementary School's "Exemplary" status.
To Rules & Resolutions.

HR 1323 (by Flores), Honoring Stephanie Renee Hinojosa for being named valedictorian of Rio Hondo High School.
To Rules & Resolutions.

HR 1324 (by Flores), Honoring Mario Ramirez for being named valedictorian of La Villa High School.
To Rules & Resolutions.

HR 1325 (by Flores), Honoring Charles Edward Vega for being named valedictorian of Sharyland High School.
To Rules & Resolutions.

HR 1326 (by Flores), Honoring Jose Bazan for being named valedictorian of Mission High School.
To Rules & Resolutions.

HR 1327 (by Flores), Honoring Emilio Alvarez for being named valedictorian of La Joya High School.
To Rules & Resolutions.

HR 1328 (by Flores), Honoring Ana Maria Castillo for being named salutatorian of Santa Rosa High School.
To Rules & Resolutions.

HR 1329 (by Flores), Honoring Javier Aranda for being named valedictorian of Santa Rosa High School.
To Rules & Resolutions.

HR 1330 (by Flores), Honoring Joyce Juan for being named salutatorian of Harlingen South High School.
To Rules & Resolutions.

HR 1331 (by Flores), Honoring Roel Flores for being named salutatorian of Harlingen High School.
To Rules & Resolutions.

HR 1332 (by Flores), Honoring Elizabeth Diaz for being named salutatorian of La Villa High School.
To Rules & Resolutions.

HR 1333 (by Flores), Honoring Nella Felice Garcia for being named salutatorian of Rio Hondo High School.
To Rules & Resolutions.

HR 1334 (by Flores), Honoring Megan Lois Neal for being named salutatorian of Sharyland High School.
To Rules & Resolutions.

HR 1335 (by Flores), Honoring Cesar R. Garza for being named salutatorian of Mission High School.
To Rules & Resolutions.

HR 1336 (by Flores), Honoring Erika Ramirez for being named salutatorian of La Joya High School.
To Rules & Resolutions.

HR 1337 (by Flores), Honoring Megan Lee Gonzalez for being named valedictorian of Harlingen South High School.
To Rules & Resolutions.

HR 1338 (by Flores), Honoring David Vonstroh for being named valedictorian of Harlingen High School.
To Rules & Resolutions.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 71

HB 247, HB 424, HB 772, HB 1032, HB 1161, HB 1504, HB 1607, HB 1851, HB 1878, HB 2045, HB 2075, HB 2124, HB 2125, HB 2148, HB 2155, HB 2186, HB 2620, HB 2735, HB 2794, HB 2835, HB 2891, HB 2992, HB 2997, HB 3050, HB 3120, HB 3173, HB 3174, HB 3209, HB 3216, HB 3229, HB 3431, HB 3479, HB 3517, HB 3521, HB 3543, HB 3544, HB 3554, HB 3573, HB 3657, HB 3682, HB 3846, HCR 310, HJR 4, HJR 62

House List No. 72

HB 610, HB 676, HB 731, HB 1172, HB 1248, HB 1342, HB 1362,

HB 1398, HB 1592, HB 1620, HB 1676, HB 1865, HB 1945, HB 1975, HB 1984, HB 2145, HB 2599, HB 2684, HB 2816, HB 2960, HB 3009, HB 3021, HB 3189, HB 3799, HCR 37, HCR 159, HCR 257

Senate List No. 37

SB 496, SB 510, SB 542, SB 581, SB 751, SB 777, SB 932, SB 1775, SB 1804

Senate List No. 38

SB 46, SB 73, SB 223, SB 391, SB 403, SB 456, SB 463, SB 602, SB 669, SB 730, SB 754, SB 839, SB 875, SB 896, SB 955, SB 1088, SB 1100, SB 1122, SB 1165, SB 1169, SB 1171, SB 1195, SB 1238, SB 1249, SB 1287, SB 1288, SB 1435, SB 1436, SB 1451, SB 1579, SB 1651, SB 1724, SB 1784, SB 1896, SB 1906, SCR 33, SCR 56, SCR 58, SCR 68

Senate List No. 39

SB 177, SB 216, SB 287, SB 525, SB 623, SB 624, SB 666, SB 844, SB 873, SB 995, SB 1441, SB 1789, SB 1840, SB 1855

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Sunday, May 30, 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:

HCR 105 Van de Putte SPONSOR: Madla
In memory of Dr. Saul Severino Trevino.

HCR 158 Hilderbran SPONSOR: Wentworth
Commending the Gillespie County Fair and Festivals Association.

HCR 249 Telford
Memorializing the U.S. Congress and urging the president, in considering Social Security reform legislation, to refrain from the inclusion of mandatory coverage for employees of previously noncovered state and local governments.

HCR 311 Chisum SPONSOR: Brown, J. E. "Buster
Commending Oklahoma State Senator Larry Dickerson and wishing him well.

SCR 88 Ogden
In memory of Senator William T. "Bill" Moore.

SCR 89 Sibley
Instructing the enrolling clerk of the senate to make corrections in S.B. No. 560.

Respectfully,

Betty King
Secretary of the Senate

Message No. 2

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Sunday, May 30, 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 ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 153	(viva-voce vote)
HB 542	(30 Yeas, 0 Nays)
HB 577	(viva-voce vote)
HB 597	(viva-voce vote)
HB 713	(30 Yeas, 0 Nays)
HB 819	(viva-voce vote)
HB 826	(30 Yeas, 0 Nays)
HB 869	(30 Yeas, 0 Nays)
HB 1140	(viva-voce vote)
HB 1444	(30 Yeas, 0 Nays)
HB 1603	(viva-voce vote)
HB 1622	(viva-voce vote)
HB 1884	(viva-voce vote)
HB 2031	(viva-voce vote)
HB 2611	(viva-voce vote)
SB 89	(viva-voce vote)
SB 104	(30 Yeas, 0 Nays)
SB 358	(viva-voce vote)
SB 560	(30 Yeas, 0 Nays)
SB 766	(21 Yeas, 8 Nays)

Respectfully,

Betty King
Secretary of the Senate

Message No. 3

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Sunday, May 30, 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 ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 352	(viva-voce vote)
HB 1104	(30 Yeas, 0 Nays)
HB 1498	(viva-voce vote)
HB 1799	(viva-voce vote)
HB 3582	(30 Yeas, 0 Nays)
HB 3693	(30 Yeas, 0 Nays)
SB 558	(viva-voce vote)
SB 694	(viva-voce vote)
SB 1615	(viva-voce vote)
SB 1703	(viva-voce vote)

Respectfully,

Betty King
Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Sunday, May 30, 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 PASSED THE FOLLOWING MEASURES:

HCR 314 Telford
Instructing the enrolling clerk of the house to make corrections in H.B. No. 1193.

HCR 315 Nixon, Joe
Instructing the enrolling clerk of the house to make technical corrections in H.B. 153.

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 564 (30 Yeas, 0 Nays)
HB 571 (viva-voce vote)
HB 628 (viva-voce vote)
HB 746 (viva-voce vote)
HB 844 (30 Yeas, 0 Nays)
HB 846 (viva-voce vote)
HB 1123 (viva-voce vote)
HB 1188 (viva-voce vote)
HB 1223 (30 Yeas, 0 Nays)
HB 1275 (30 Yeas, 0 Nays)
HB 1983 (viva-voce vote)
HB 2147 (30 Yeas, 0 Nays)
HB 2175 (viva-voce vote)
HB 2224 (viva-voce vote)
HB 2510 (viva-voce vote)
HB 2748 (30 Yeas, 0 Nays)
HB 2821 (viva-voce vote)
HB 2825 (viva-voce vote)
HB 3457 (viva-voce vote)
HB 3470 (30 Yeas, 0 Nays)
HB 3778 (viva-voce vote)
SB 8 (viva-voce vote)
SB 50 (viva-voce vote)
SB 86 (30 Yeas, 0 Nays)
SB 365 (viva-voce vote)
SB 371 (viva-voce vote)
SB 709 (30 Yeas, 0 Nays)
SB 913 (30 Yeas, 0 Nays)
SB 947 (viva-voce vote)
SB 957 (viva-voce vote)
SB 982 (viva-voce vote)
SB 996 (viva-voce vote)
SB 1128 (30 Yeas, 0 Nays)
SB 1230 (viva-voce vote)
SB 1237 (viva-voce vote)
SB 1423 (viva-voce vote)
SB 1520 (30 Yeas, 0 Nays)
SB 1525 (viva-voce vote)

THE SENATE HAS REFUSED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 673

THE SENATE HAS TAKEN THE FOLLOWING OTHER ACTION:

HB 143
Discharge Conference Committee

Respectfully,

Betty King
Secretary of the Senate

Message No. 5

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Sunday, May 30, 1999 - 5

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the Senate to inform the House that the Senate has taken the following action:

THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 956 (viva-voce vote)
SCR 79 (viva-voce vote)

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

HB 211 (30 Yeas, 0 Nays)
HB 400 (viva-voce vote)
HB 485 (30 Yeas, 0 Nays)
HB 662 (viva-voce vote)
HB 744 (viva-voce vote)
HB 801 (viva-voce vote)
HB 918 (viva-voce vote)
HB 932 (viva-voce vote)
HB 1059 (viva-voce vote)
HB 1283 (viva-voce vote)
HB 1291 (30 Yeas, 0 Nays)
HB 1376 (viva-voce vote)
HB 1453 (viva-voce vote)
HB 1703 (viva-voce vote)
HB 1861 (viva-voce vote)
HB 1933 (30 Yeas, 0 Nays)
HB 1939 (viva-voce vote)
HB 1961 (viva-voce vote)
HB 1997 (30 Yeas, 0 Nays)
HB 2409 (viva-voce vote)

HB 2434 (30 Yeas, 0 Nays)
HB 2553 (viva-voce vote)
HB 2641 (viva-voce vote)
HB 2815 (viva-voce vote)
HB 2896 (30 Yeas, 0 Nays)
HB 2947 (viva-voce vote)
HB 2954 (viva-voce vote)
HB 3014 (viva-voce vote)
HB 3016 (viva-voce vote)
HB 3029 (viva-voce vote)
HB 3079 (viva-voce vote)
HB 3182 (viva-voce vote)
HB 3211 (30 Yeas, 0 Nays)
HB 3255 (30 Yeas, 0 Nays)
HB 3304 (viva-voce vote)
HB 3549 (viva-voce vote)
HB 3620 (30 Yeas, 0 Nays)
HB 3697 (viva-voce vote)
HB 3757 (viva-voce vote)
HB 3793 (30 Yeas, 0 Nays)
SB 4 (30 Yeas, 0 Nays)
SB 103 (21 Yeas, 9 Nays)
SB 138 (viva-voce vote)
SB 178 (viva-voce vote)
SB 370 (viva-voce vote)
SB 441 (30 Yeas, 0 Nays)
SB 528 (viva-voce vote)
SB 655 (30 Yeas, 0 Nays)
SB 840 (30 Yeas, 0 Nays)
SB 1438 (viva-voce vote)

Respectfully,

Betty King
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 29

Urban Affairs - **HR 1048**

ENGROSSED

May 29 - HCR 120, HCR 248

ENROLLED

May 29 - HB 247, HB 424, HB 772, HB 1032, HB 1161, HB 1504, HB 1607, HB 1851, HB 1878, HB 2045, HB 2075, HB 2124, HB 2125, HB 2148, HB 2155, HB 2186, HB 2620, HB 2735, HB 2794, HB 2835, HB 2891, HB 2992, HB 2997, HB 3050, HB 3120, HB 3173, HB 3174, HB 3209, HB 3216, HB 3229, HB 3431, HB 3479, HB 3517, HB 3521, HB 3543, HB 3544, HB 3554, HB 3573, HB 3657, HB 3682, HB 3846, HCR 310, HJR 4, HJR 62

SENT TO THE GOVERNOR

May 29 - HB 23, HB 27, HB 51, HB 91, HB 236, HB 426, HB 450, HB 496, HB 508, HB 509, HB 512, HB 524, HB 550, HB 635, HB 641, HB 747, HB 836, HB 947, HB 955, HB 962, HB 964, HB 998, HB 1001, HB 1064, HB 1111, HB 1168, HB 1227, HB 1265, HB 1321, HB 1322, HB 1328, HB 1379, HB 1420, HB 1542, HB 1571, HB 1606, HB 1618, HB 1627, HB 1654, HB 1655, HB 1666, HB 1697, HB 1733, HB 1743, HB 1754, HB 1764, HB 1798, HB 1802, HB 1805, HB 1847, HB 1874, HB 1876, HB 1896, HB 1906, HB 1919, HB 1921, HB 1925, HB 1956, HB 1976, HB 1999, HB 2009, HB 2017, HB 2019, HB 2032, HB 2034, HB 2035, HB 2049, HB 2057, HB 2101, HB 2172, HB 2202, HB 2207, HB 2219, HB 2220, HB 2231, HB 2247, HB 2252, HB 2253, HB 2260, HB 2265, HB 2269, HB 2272, HB 2275, HB 2300, HB 2394, HB 2397, HB 2408, HB 2415, HB 2429, HB 2455, HB 2469, HB 2522, HB 2536, HB 2539, HB 2541, HB 2559, HB 2563, HB 2572, HB 2574, HB 2585, HB 2603, HB 2655, HB 2667, HB 2706, HB 2711, HB 2729, HB 2754, HB 2758, HB 2759, HB 2764, HB 2769, HB 2781, HB 2785, HB 2795, HB 2806, HB 2819, HB 2822, HB 2842, HB 2853, HB 2856, HB 2858, HB 2869, HB 2870, HB 2873, HB 2879, HB 2890, HB 2892, HB 2898, HB 2914, HB 2920, HB 2922, HB 2930, HB 2937, HB 2969, HB 3001, HB 3002, HB 3020, HB 3034, HB 3072, HB 3091, HB 3093, HB 3114, HB 3125, HB 3126, HB 3176, HB 3178, HB 3185, HB 3257, HB 3262, HB 3265, HB 3277, HB 3285, HB 3343, HB 3355, HB 3401, HB 3447, HB 3448, HB 3450, HB 3451, HB 3452, HB 3458, HB 3463, HB 3480, HB 3551, HB 3604, HB 3606, HB 3616, HB 3630, HB 3641, HB 3656, HB 3658, HB 3660, HB 3684, HB 3685, HB 3696, HB 3736, HB 3739, HB 3773, HB 3775, HB 3776, HB 3780, HB 3786, HB 3794, HB 3803, HB 3804, HB 3807, HB 3814, HB 3817, HB 3821, HB 3822, HB 3823, HB 3825, HB 3826, HB 3827, HB 3838, HB 3845, HB 3849, HB 3854, HCR 66, HCR 96, HCR 111, HCR 117, HCR 124, HCR 141, HCR 178, HCR 181, HCR 267, HCR 277, HCR 297, HCR 306

SENT TO THE COMPTROLLER

May 29 - HB 1