

# SEVENTY-SIXTH DAY

(CONTINUED)

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MONDAY, MAY 24, 1999

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## PROCEEDINGS

### AFTER RECESS

The Senate met at 8:30 a.m. and was called to order by Senator Madla.

### SESSION HELD FOR LOCAL AND UNCONTESTED CALENDAR

The Presiding Officer announced that the time had arrived to consider bills and resolutions placed on the Local and Uncontested Calendar. Notice of consideration of the local calendar was given by Senator Harris Friday, May 21, 1999.

Pursuant to Senate Rule 9.03(d), the following bills and resolutions in the order listed were laid before the Senate, read second time, amended where applicable, passed to engrossment or third reading, read third time, and passed. The votes on suspension of the Constitutional Three-day Rule and final passage are indicated after each caption.

**CSHB 23** (Armbrister) Relating to liability for certain prohibited telephone communications. (30-0) (30-0)

**CSHB 485** (Wentworth on behalf of Madla) Relating to the validation of a municipal act or proceeding. (30-0) (30-0)

**CSHB 508** (Sibley) Relating to interlocal contracts for the construction, improvement, or repair of streets and alleys in municipalities. (30-0) (30-0)

**CSHB 542** (Fraser) Relating to the board of directors of the Texas Workers' Compensation Insurance Fund and to the operation of certain programs of that fund. (30-0) (30-0)

**HB 817** (Armbrister) Relating to regulation of cemeteries. (30-0) (30-0)

Senator Armbrister offered the following committee amendment to the bill:

#### **Committee Amendment No. 1**

Amend **HB 817** as follows:

At the end of Sec. 711.011(a) after "located." add a new sentence to read "The notice must contain a legal description of the land on which the unknown, abandoned cemetery was found and describe the approximate location of the cemetery and the evidence of the cemetery that was discovered."

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Armbrister and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 836** (Zaffirini) Relating to access under the public information law to birth and death indexes. (30-0) (30-0)

**HB 918** (Wentworth) Relating to the copies prepared by a district or county clerk of certain court records. (30-0) (30-0)

Senator Wentworth offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 918** as follows:

On page 2, between lines 2 and 3 insert the section below and renumber the following sections accordingly:

SECTION 3. Section 51.803 is amended by amending Subsection (b) to read as follows:

(b) An instrument may only be filed as provided by this subchapter if the district, county, or court of appeals has established a system for receiving electronically transmitted information from an electronic copying device, and the system has been approved by the Supreme Court. A district or county court may not mandate electronic filing as a sole means of filing documents in lawsuits. A district or county clerk or clerk of a court of appeals who believes there is justification for use of an electronic filing system in the clerk's office must request approval of the system from the supreme court. The supreme court shall approve or disapprove the system and may withdraw approval any time the system does not meet its requirements.

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Wentworth and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 962** (Duncan) Relating to the sale or lease of a certain facility owned and operated by the Lubbock County Hospital District; providing a penalty. (30-0) (30-0)

**CSHB 1064** (Carona) Relating to the regulation of the sale and use of certain refrigerants. (30-0) (30-0)

**HB 1102** (Jackson) Relating to prohibiting discharge or release payments to certain inmates of the Texas Department of Criminal Justice. (30-0) (30-0)

Senator Jackson offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 1102** by adding the following language on Page 1, Line 10, following "facility" and before the period:

or who is subject to a felony detainer and is released to the custody of another jurisdiction

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Jackson and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 1111** (Bernsen) Relating to the dissolution of the Montgomery County Hospital District. (30-0) (30-0)

Senator Bernsen offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 1111** as follows:

(1) In SECTION 1 of the bill, in proposed Subsection (f), Section 23A, Chapter 258, Acts of the 65th Legislature, Regular Session, 1977 (House engrossment, page 2, lines 23-26), strike "The county should use all transferred assets in a manner that benefits residents of the county residing in territory formerly constituting the district." and substitute the following:

The county shall use all transferred assets to:

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

(2) furnish medical and hospital care for the needy residents of the county.

(2) In SECTION 1 of the bill, at the end of proposed Subsection (j), Section 23A, Chapter 258, Acts of the 65th Legislature, Regular Session, 1977 (House engrossment, page 3, between lines 23 and 24), insert "Montgomery County shall use unused district money received under this section to furnish medical and hospital care for the needy residents of the county."

(3) In SECTION 1 of the bill, at the end of proposed Subsection (e), Section 23B, Chapter 258, Acts of the 65th Legislature, Regular Session, 1977 (House engrossment, page 5, line 10), insert the following:

The county shall use all transferred assets to:

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

(2) furnish medical and hospital care for the needy residents of the county.

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Bernsen and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 1168** (Ellis) Relating to security services in certain court buildings. (30-0) (30-0)

**CSHB 1322** (Brown) Relating to a child support lien. (30-0) (30-0)

**CSHB 1328** (Shapleigh) Relating to the regulation of the practice of professional land surveying. (30-0) (30-0)

**CSHB 1379** (Armbrister) Relating to the information about an inmate of the Texas Department of Criminal Justice that is subject to public disclosure or excepted from public disclosure. (30-0) (30-0)

**HB 1420** (Truan) Relating to complaints filed with the Texas State Board of Podiatric Medical Examiners. (30-0) (30-0)

Senator Truan offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 1420** by striking Section 1 in its entirety and replacing it with the following:

SECTION 1. Subsection (a), Article 4573, Revised Statutes, is amended to read as follows:

(a) The Board shall maintain an information file about each complaint filed with the Board. If a written complaint is filed with the Board, the Board may provide a copy of the complaint to the license holder, unless providing a copy would jeopardize an investigation, and, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notification would jeopardize an undercover investigation.

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Truan and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 1511** (Armbrister) Relating to the operation and regulation of pawnshops. (30-0) (30-0)

**CSHB 1542** (West) Relating to purchasing requirements for school districts and junior college districts. (30-0) (30-0)

**CSHB 1571** (Harris) Relating to the name of a decedent on a grave marker. (30-0) (30-0)

**HB 1607** (Ellis) Relating to the assignment of a statutory probate court judge to hear a contested probate matter. (30-0) (30-0)

Senator Ellis offered the following committee amendment to the bill:

### **Committee Amendment No. 1**

Amend **HB 1607** as follows:

SECTION 2. Section 606(b), Texas Probate Code, is amended to read as follows:

(b) In those counties in which there is no statutory probate court, county court at law, or other statutory court exercising the jurisdiction of a probate court, all applications, petitions and motions regarding guardianships, mental health matters, and other matters covered by this chapter shall be filed and heard in the county court, except that in contested guardianship matters, the judge of the county court may on the judge's own motion, or shall on the motion of any party to the proceeding, according to the motion, request as provided by Section 25.0022, Government Code, the assignment of a statutory probate court judge to hear the contested portion of the proceeding, or transfer the contested portion of the proceeding to the district court, which may hear the transferred contested matters as if originally filed in the district court. If the judge of the county court has not transferred a contested guardianship matter to the district court at the time a party files a motion for assignment of a statutory probate court judge, the county judge shall grant the motion and may not transfer the matter to district court unless the party withdraws the motion. A statutory probate court judge assigned to a contested probate matter as provided by this subsection has for that matter the jurisdiction and authority granted to a statutory probate court by Sections 607 and 608 of this code. The county court continues to exercise jurisdiction over the management of the guardianship with the exception of the contested matter until final disposition of the contested matter is made by the assigned judge or the district court. In contested matters transferred to the district court as provided by

this subsection, the district court, concurrently with the county court, has the general jurisdiction of a probate court. On resolution of all pending contested matters, the district court shall transfer the contested portion of the guardianship proceeding to the county court for further proceedings not inconsistent with the orders of the district court. If a contested portion of the proceeding is transferred to a district court under this subsection, the clerk of the district court may perform in relation to the transferred portion of the proceeding any function a county clerk may perform in that type of contested proceeding.

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Ellis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 1654** (Brown) Relating to the regulation of private sewage facilities; providing a criminal penalty. (30-0) (30-0)

**CSHB 1655** (Truan) Relating to the rate and allocation of the hotel occupancy tax in certain municipalities. (30-0) (30-0)

**CSHB 1703** (Wentworth on behalf of Madla) Relating to the application and enforcement of traffic regulations in private subdivisions. (30-0) (30-0)

**CSHB 1764** (Whitmire) Relating to coverage by a health benefit plan of reconstructive breast surgery after mastectomy. (30-0) (30-0)

**CSHB 1878** (Harris) Relating to the regulation of pawnbrokers and pawnshop employees. (30-0) (30-0)

**CSHB 1921** (Bivins) Relating to the appointment of a bailiff for certain counties in the 84th Judicial District. (30-0) (30-0)

**HB 2124** (Ellis) Relating to protective orders and the protection of victims of family violence, including the creation of certain capital offenses. (30-0) (30-0)

Senator Ellis offered the following committee amendment to the bill:

#### **Committee Amendment No. 1**

Amend **HB 2124** as follows:

On page 7, line 2 strike subsection (9).

On page 8, line 8 strike subsection (F).

On page 8, line 24 unstrike "imminent".

On page 9, line 8 strike "a" and unstrike "an adult".

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Ellis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 2421** (Wentworth on behalf of Madla) Relating to the accrual of interest on delinquent child support. (30-0) (30-0)

**HB 2434** (Moncrief) Relating to insurance provided by or through certain development corporations created by certain political subdivisions. (30-0) (30-0)

Senator Moncrief offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 2434** as follows:

(1) In SECTION 1, in the recital (house engrossment, page 1, line 7), strike "Subsection (c)" and substitute "Subsections (c) and (d)".

(2) In SECTION 1, following added Subsection (c), Section 23, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes) (house engrossment, page 1, between lines 19 and 20), insert new Subsection (d) to read as follows:

(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 directors and employees.

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Moncrief and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 2441** (Ellis) Relating to the requirement that parents participate in a parenting course and counseling in certain suits involving children. (30-0) (30-0)

Senator Ellis offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 2441** as follows:

On page 4, insert a new section (l) between lines 14 and 15, to read as follows:

(l) A person who has attended a course under this section may not be required to attend the course more than twice before the fifth anniversary of the date the person completes the course for the first time.

The committee amendment was read and was adopted by a viva voce vote.

Senator Ellis offered the following committee amendment to the bill:

**Committee Amendment No. 2**

Amend **HB 2441** as follows:

On page 4, line 14, insert a new sentence after the word "available." to read as follows:

A party to a suit may not be required to pay more than \$100 to attend a course ordered under this section.

The committee amendment was read and was adopted by a viva voce vote.

Senator Ellis offered the following committee amendment to the bill:

**Committee Amendment No. 3**

Amend **HB 2441** as follows:

On page 3, line 14, strike the word "offered" and insert the word "completed" after the word "be".

The committee amendment was read and was adopted by a viva voce vote.

Senator Ellis offered the following committee amendment to the bill:

**Committee Amendment No. 4**

Amend **HB 2441** as follows:

1. On page 2, line 19, insert the word "or" after the word "education;"
2. On page 2, line 22, strike "~~or~~" after the word "institution"
3. On page 2, line 22, insert the words "if the litigant so chooses." after the word "institution"
4. On page 2, beginning on line 23, strike subsection (3) in its entirety

The committee amendment was read and was adopted by a viva voce vote.

Senator Ellis offered the following committee amendment to the bill:

**Committee Amendment No. 5**

Amend **HB 2441** as follows:

On page 1, line 18, insert the words ", but not more than twelve hours." after the word "hours".

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Ellis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 2522** (Lindsay) Relating to the administration of retirement systems for paid, partly paid, or volunteer firefighters. (30-0) (30-0)

**HB 2526** (Armbrister) Relating to the penalties for poaching. (30-0) (30-0)

Senator Armbrister offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 2526**, Engrossed Version, on page 7, line 19, by striking "general revenue fund" and substituting "game, fish, and water safety account".

The committee amendment was read and was adopted by a viva voce vote.

Senator Armbrister offered the following committee amendment to the bill:

**Committee Amendment No. 2**

Amend **HB 2526**, Engrossed Version, on page 1, line 17, by striking ", motor vehicle.".

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Armbrister and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 2537** (Cain) Relating to warranty performance obligations applicable to certain motor vehicles. (30-0) (30-0)

**CSHB 2539** (Cain) Relating to the issuance of license plates for vehicle converters. (30-0) (30-0)

**HB 2572** (Wentworth) Relating to the reservation of riparian rights associated with land sold by certain municipalities. (30-0) (30-0)

Senator Wentworth offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 2572** in SECTION 1 of the bill, in Section 272.001(h), Local Government Code, by striking the added sentence (page 1, lines 15-18, Engrossed version) and substituting the following:

To protect the public health, safety, or welfare and to ensure an adequate municipal water supply, property sold by the municipality under this subsection is not eligible for and the owner is not entitled to the exemption provided by Section 11.142(a), Water Code. The instrument conveying property under this subsection must include a provision stating that the exemption does not apply to the conveyance.

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Wentworth and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 2573** (Nelson) Relating to tertiary medical care. (30-0) (30-0)

**HB 2620** (Armbrister) Relating to authorizing counties to prohibit or restrict outdoor burning; providing a criminal penalty. (30-0) (30-0)

Senator Armbrister offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 2620** Section 1 by adding Section 240.906(f)(3) to read Section 240.906(f) This Section does not apply to . . .

(3) harvesting of agriculture crops.

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Armbrister and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 2748** (Sibley) Relating to coverage for certain care for children provided through certain health benefit plans. (30-0) (30-0)

**CSHB 2760** (Gallegos) Relating to special license plates for persons retired from service in the merchant marine of the United States. (30-0) (30-0)

**HB 2835** (Shapleigh) Relating to information that certain state agencies must post on the Internet. (30-0) (30-0)

Senator Shapleigh offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 2835** as follows:

Between "exceeding" and "that" (HOUSE ENGROSSMENT, page 2, line 3), delete "\$15,000" and insert "\$100,000" in its place.

The committee amendment was read and was adopted by a viva voce vote.



Senator Shapleigh offered the following committee amendment to the bill:

**Committee Amendment No. 2**

Amend **HB 2835** as follows:

Between "agency" and "that" (HOUSE ENGROSSMENT, page 1, line 8) insert ", other than an institution of higher education,"

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Shapleigh and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 2842** (Armbrister) Relating to continued payment of salary by an employer as replacement for certain workers' compensation income benefits. (30-0) (30-0)

**HB 2873** (Zaffirini) Relating to the operation of certain Medicaid waiver programs for children with disabilities or special health care needs. (30-0) (30-0)

Senator Zaffirini offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 2873** as follows:

(1) In SECTION 1 of the bill, in proposed Section 32.052(e), Human Resources Code (House engrossment, page 2, line 26), strike "department" and substitute "Health and Human Services Commission".

(2) In SECTION 1 of the bill, in proposed Section 32.052(e), Human Resources Code (House engrossment, page 2, line 27), strike "to the department".

(3) In SECTION 1 of the bill, in proposed Section 32.052(e), Human Resources Code (House engrossment, page 3, line 1), between "section" and the period, insert "to the commission and each appropriate agency providing those services".

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 2879** (Shapleigh) Relating to creating an offense for transporting an individual under certain circumstances. (30-0) (30-0)

Senator Shapleigh offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 2879** as follows:

In SECTION 1, amend Chapter 20, Penal Code (House Engrossed Version, on page 1, line 13) between "injury" and ";", insert "or death"

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Shapleigh and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 2891** (Gallegos) Relating to the creation of the Aldine Community Improvement District; authorizing the issuance of bonds and the imposition of taxes. (30-0) (30-0)

**CSHB 2894** (Ellis) Relating to the creation of the Midtown Management District; providing authority to impose a tax and issue bonds. (30-0) (30-0)

**HB 2977** (Lindsay) Relating to the authority of the Texas Natural Resource Conservation Commission to certify that the discharge of a pollutant will not cause a violation of certain water quality standards under the Federal Water Pollution Control Act. (30-0) (30-0)

Senator Lindsay offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 2977** (House Engrossment) as follows:

(1) In SECTION 26.0231 of the bill strike subsection (c) (page 5, lines 23 to 25) and substitute the following:

"(c) With respect to the activities described in Section 26.131, Water Code, the Railroad Commission of Texas may exercise the powers reserved to the state under the Federal Water Pollution Control Act (33 U.S.C. Section 1341), as amended."

(2) In SECTION 26.0231 of the bill after "mitigation" and before the "." insert "in compliance with state water quality standards"

(3) In SECTION 26.0231 of the bill, page 6, strike lines 2 through 9.

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Lindsay and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 3191** (Ellis) Relating to the imposition of a criminal penalty and the disposition of fines for a violation of a rule concerning the use of county parks. (30-0) (30-0)

Senator Ellis offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 3191** as follows:

On page 1, substitute the new SECTION 1 on line 7, to read as follows:

In Subchapter C, Chapter 320, Local Government Code, is amended by adding 320.0455 to read as follows:

SECTION 1. Sec. 320.0455. RULES IN A POPULOUS COUNTY; PENALTY FOR VIOLATIONS. (a) This section applies to a county with a population of 2.8 million or more.

(b) Subject to the approval of the commissioners court, the board may adopt reasonable rules concerning the use of any park administered by the board.

(c) A person commits an offense if the person violates a rule approved by the commissioners court under Subsection (b). An offense under this subsection is a Class C misdemeanor.

(d) Fines collected under Subsection (c) shall be deposited in the county's general fund.

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Ellis and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 3197** (Bernsen) Relating to the appraisal and ad valorem taxation of retail manufactured housing inventory. (30-0) (30-0)

Senator Bernsen offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 3197** as follows:

(1) Delete Section 3 of **HB 3197** and add a new Section 3 to read as follows:

"SECTION 3. Sections 23.128(h) and (i), Tax Code, are amended to read as follows:

"(h) An appropriate taxing unit shall, on its tax bill prepared for the owner of a retail manufactured housing inventory, separately itemize the taxes imposed on the retail manufactured housing inventory. When the tax bill is prepared for a retail manufactured housing inventory, the assessor for the taxing unit, or an entity, if any, other than the collector, that collects taxes on behalf of the taxing unit, shall provide the collector a true and correct copy of the tax bill sent to the owner, including taxes imposed on the retail manufactured housing inventory. The collector shall apply the money in the owner's escrow account to the taxes imposed and deliver a tax receipt to the owner. The collector shall apply the amount to each appropriate taxing unit in proportion to the amount of taxes imposed, and the assessor of each taxing unit shall apply the money received from the collector to the taxes owed by the owner. No penalties or interest shall be assessed against an owner for property taxes which the owner has previously paid but which are not delivered to the appropriate taxing unit before the date on which such taxes become delinquent.

"(i) If the amount in the escrow account is not sufficient to pay the taxes in full, the collector shall apply the money to the taxes and deliver to the owner a tax receipt for the partial payment and a tax bill for the amount of the deficiency together with a statement that the owner must remit to the collector the balance of the total tax due; however, no penalty or interest shall be assessed against an owner for that portion of the property taxes which represents the amount of the partial payment if the amount of the deficiency is not paid before the date the deficiency is delinquent."

(2) Add a new Section 4 to read as follows:

"Section 4. Sections 1 and 2 of this Act take effect January 1, 2000, and apply only to an ad valorem tax year that begins on or after that date. Section 3 of this Act takes effect September 1, 1999."

(3) Appropriately renumber the remaining section of **HB 3197**.

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Bernsen and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 3265** (Wentworth on behalf of Madla) Relating to the duties of a justice of the peace with respect to inquests on dead bodies. (30-0) (30-0)

Senator Wentworth, on behalf of Senator Madla, offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 3265** as follows:

(1) On page 1, line 7 strike "For" and substitute "Except as required by Section 264.514, Family Code, for".

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Wentworth and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 3458** (Wentworth on behalf of Madla) Relating to certain bonds required of a county tax assessor-collector and a county treasurer. (30-0) (30-0)

**HB 3481** (Wentworth on behalf of Madla) Relating to the board of directors and the validation of certain acts of the Bexar-Medina-Atascosa Counties Water Control and Improvement District No. 1. (30-0) (30-0)

Senator Wentworth, on behalf of Senator Madla, offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 3481** as follows:

On page 2, between Line 14 and Line 15, insert the following: "(d) The provisions of Section 49.056(c), Water Code, do not apply to the District."

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Wentworth and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 3492** (Armbrister) Relating to the requirement that the motor vehicle of a person convicted of certain offenses involving the operation of a motor vehicle while intoxicated be equipped with an ignition interlock device and that the Department of Public Safety establish minimum standards for vendors of ignition interlock devices. (30-0) (30-0)

**HB 3598** (Cain) Relating to requiring notice regarding the location of establishments serving alcoholic beverages, sexually oriented businesses, and correctional or rehabilitation facilities. (30-0) (30-0)

Senator Cain offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 3598** as follows:

(1) In SECTION 1 of the bill, in Section 11.391(c), Alcoholic Beverage Code (Committee Printing page 2, line 4), strike "or 21" and substitute "21, 22, 23, 24, or 52".

(2) In SECTION 2 of the bill, in Section 61.381, Alcoholic Beverage Code (Committee Printing page 3, line 15), strike "or 66" and substitute "66, or 71".

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Cain and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 3741** (Zaffirini) Relating to regulation by the Department of Protective and Regulatory Services of certain child-care facilities, family homes, and child-placing agencies. (30-0) (30-0)

Senator Zaffirini offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 3741** by adding the following appropriately numbered SECTION to the bill to read as follows and by renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_. Section 42.059(a), Human Resources Code, is amended to read as follows:

(a) An applicant for temporary or permanent employment with a licensed facility or registered family home whose employment or potential employment with the facility or home involves direct interactions with or the opportunity to interact and associate with children must execute and submit the following affidavit with the application for employment:

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

I swear or affirm under penalty of perjury that I do not now and I have not at any time, either as an adult or as a juvenile:

1. Been convicted of;
2. Pleaded guilty to (whether or not resulting in a conviction);
3. Pleaded nolo contendere or no contest to;
4. Admitted;
5. Had any judgment or order rendered against me (whether by default or otherwise);
6. Entered into any settlement of an action or claim of;
7. Had any license, certification, employment, or volunteer position suspended, revoked, terminated, or adversely affected because of;
8. ~~[Been diagnosed as having or have been treated for any mental or emotional condition arising from;~~
9. Resigned under threat of termination of employment or volunteerism for;
9. ~~[10:]~~ Had a report of child abuse or neglect made and substantiated against me for; or
10. ~~[11:]~~ Have any pending criminal charges against me in this or any other jurisdiction for;

Any conduct, matter, or thing (irrespective of formal name thereof) constituting or involving (whether under criminal or civil law of any jurisdiction):

1. Any felony;
2. Rape or other sexual assault;
3. Physical, sexual, emotional abuse and/or neglect of a minor;
4. Incest;
5. Exploitation, including sexual, of a minor;
6. Sexual misconduct with a minor;
7. Molestation of a child;
8. Lewdness or indecent exposure;
9. Lewd and lascivious behavior;
10. Obscene or pornographic literature, photographs, or videos;
11. Assault, battery, or any violent offense involving a minor;
12. Endangerment of a child;

13. Any misdemeanor or other offense classification involving a minor or to which a minor was a witness;

14. Unfitness as a parent or custodian;

15. Removing children from a state or concealing children in violation of a court order;

16. Restrictions or limitations on contact or visitation with children or minors resulting from a court order protecting a child or minor from abuse, neglect, or exploitation; or

17. Any type of child abduction[~~;~~or,

~~[18. Similar or related conduct, matters, or things].~~

Except the following (list all incidents, location, description, and date) (if none, write NONE)

Signed \_\_\_\_\_

Date \_\_\_\_\_.

Subscribed and sworn to (or affirmed) before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Signature of notarial officer \_\_\_\_\_.

(seal, if any, of notarial officer)

My commission expires: \_\_\_\_\_

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 3757** (Carona) Relating to approved drug and alcohol driving awareness programs. (30-0) (30-0)

**CSHB 3780** (Truan) Relating to the creation of a county court at law in Nueces County and to the probate jurisdiction of the county courts at law in Nueces County. (30-0) (30-0)

### **BILL REMOVED FROM LOCAL AND UNCONTESTED CALENDAR**

Senator Shapleigh, sponsor of the bill, requested in writing that **HB 2147** be removed from the Local and Uncontested Calendar.

### **SESSION CONCLUDED FOR LOCAL AND UNCONTESTED CALENDAR**

Senator Madla announced that the session to consider bills and resolutions placed on the Local and Uncontested Calendar was concluded.

### **ADJOURNMENT**

Pursuant to a previously adopted motion, the Senate at 9:07 a.m. adjourned, in memory of Patricia J. Dobbs of Austin, until 10:00 a.m. today.

# SEVENTY-SEVENTH DAY

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MONDAY, MAY 24, 1999

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## PROCEEDINGS

The Senate met at 10:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ogden, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Luna.

The President announced that a quorum of the Senate was present.

The Reverend Steven Sweet, Tarrytown United Methodist Church, Austin, offered the invocation as follows:

Dear Lord, at the opening of this session we asked for Your help to be together, I mean really together. We asked that You would not let our many minor or personal issues determine the outcomes of the major decisions that we would need to make for our people and in this community.

Lord, You have invested each of these persons with position, with power, and with decision-making authority. May each one reflect on their service to You and to their neighbors. May each one, given this special privilege and responsibility, be able to face You in sincerity with a clean conscience and with the confidence of one who has served wisely and justly.

We are drowned daily in concerns with the world which seem so far away and so overwhelming. We often feel powerless to effect substantial change or to make contributions of significance. Yet, in this place and at this time, these, Your servants, can contribute to the betterment of our society in significant and substantial ways. Lord, help them each and every one to be sensitive to human suffering, responsible to the task of leadership, and open to Your guiding spirit. Let Your leaders seize the moments before them to do Your will.

As we approach the moments left to us, Lord, help us to be together, I mean really together, together with You, together with Your will, and together with each other. Let us make no mistake, we are all together accountable to You, accountable for the privilege of leadership, and accountable to those we are privileged to serve. Even though You at times seem far away, we are accountable to You. Even though those we serve seem so far away, we are accountable to them. We are here to contribute; give us the courage and wisdom in these last days of session. Lord, bless these Your leaders. Amen.

On motion of Senator Truan and by unanimous consent, the reading of the Journal of the proceedings of Friday, May 21, 1999, was dispensed with and the Journal was approved.

### **LEAVE OF ABSENCE**

On motion of Senator Barrientos, Senator Luna was granted leave of absence for today on account of illness.

### **REPORT OF COMMITTEE ON NOMINATIONS**

Senator Wentworth submitted the following report from the Committee on Nominations:

We, your Committee on Nominations, to which were referred the following appointments, have had same under consideration and report them back to the Senate with a recommendation that they be confirmed.

Members, Texas Board of Physical Therapy Examiners: Harvey Dean Aikman, Hidalgo County; Sylvia A. Dávila, Bexar County; Holly Ruth Hall, Grayson County; Michael Grady Hines, Smith County; Mary Thompson, Ph.D., Collin County.

### **NOTICE OF CONSIDERATION OF NOMINATIONS**

Senator Wentworth gave notice that he would tomorrow at the conclusion of morning call submit to the Senate for consideration nominations to agencies, boards, and commissions of the state.

**(Senator Lindsay in Chair)**

### **CAPITOL PHYSICIAN**

Senator Nixon was recognized and presented Dr. Douglas Curran of Athens as the "Doctor for the Day."

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

### **CONFERENCE COMMITTEE ON SENATE BILL 138 DISCHARGED**

On motion of Senator Sibley and by unanimous consent, the Senate conferees on **SB 138** were discharged.

Question—Shall the Senate concur in the House amendments to **SB 138**?

Senator Sibley again moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the conference committee on **SB 138** before appointment.



There were no motions offered.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators Sibley, Chair; Shapiro, Ogden, Cain, and Wentworth.

### CONCLUSION OF MORNING CALL

The Presiding Officer at 10:30 a.m. announced the conclusion of morning call.

### HOUSE BILL 3084 ON THIRD READING

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its third reading and final passage:

**HB 3084**, Relating to the creation and re-creation of funds and accounts in the state treasury, the dedication and rededication of revenue, and the exemption of unappropriated money from use for general governmental purposes.

The bill was read third time.

Senator Ratliff offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **HB 3084** by striking all below the enacting clause and substituting the following:

**SECTION 1. DEFINITION.** In this Act, "state agency" means an office, institution, or other agency that is in the executive branch of state government, has authority that is not limited to a geographical portion of the state, and was created by the constitution or a statute of this state, but does not include an institution of higher education as defined by Section 61.003, Education Code.

**SECTION 2. ABOLITION OF FUNDS, ACCOUNTS, AND DEDICATIONS.** Except as otherwise specifically provided by this Act, all funds and accounts created or re-created in the state treasury by an Act of the 76th Legislature, Regular Session, 1999, that becomes law, and all dedications or rededications of revenue in the state treasury or otherwise collected by a state agency for a particular purpose by an Act of the 76th Legislature, Regular Session, 1999, that becomes law, are abolished on the later of August 30, 1999, or the date the Act creating or re-creating the fund or account or dedicating or rededicating revenue takes effect.

**SECTION 3. PREVIOUSLY EXEMPT DEDICATIONS, FUNDS, AND ACCOUNTS.** Section 2 of this Act does not apply to statutory dedications, funds, and accounts that were enacted before the 76th Legislature convened to comply with requirements of state constitutional or federal law, to dedications, funds, or accounts that remained exempt from former Section 403.094(h), Government Code, at the time dedications, accounts, and funds were abolished under that provision, to increases in fees or in other revenue dedicated as described by this section, or to increases in fees or in other revenue required to be deposited in a fund or account described by this section.

**SECTION 4. ACCOUNTS IN GENERAL REVENUE FUND.** Effective August 30, 1999, the following accounts and the revenue deposited to the credit of the accounts are exempt from Section 2 of this Act and are created in the general revenue fund, if created by an Act of the 76th Legislature, Regular Session, 1999, that becomes law:

(1) the blindness education, screening, and treatment program account created by Senate Bill No. 206 or House Bill No. 984;

(2) the Texas Department of Health state-owned multi-categorical teaching hospital account created by House Bill No. 1799 or other legislation;

(3) the 9-1-1 services fee fund created by House Bill No. 1983;

(4) the petroleum storage tank removal loan program account created by House Bill No. 2816; and

(5) all funds created by House Bill No. 1676.

SECTION 5. OTHER FUNDS IN TREASURY. Effective August 30, 1999, the following funds in the state treasury and the revenue deposited to the credit of the funds are exempt from Section 2 of this Act, if created by an Act of the 76th Legislature, Regular Session, 1999, that becomes law:

(1) all funds created by House Bill No. 1945; and

(2) the low-level radioactive waste perpetual care fund created by House Bill No. 1910.

SECTION 6. FUNDS TO BECOME ACCOUNTS. Effective August 30, 1999, the following funds in the state treasury are re-created as accounts in the general revenue fund and the accounts and the revenue deposited to the credit of the accounts are exempt from Section 2 of this Act, if created by an Act of the 76th Legislature, Regular Session, 1999, that becomes law:

(1) the Texas public library fund created by Senate Bill No. 691; and

(2) the Business Enterprises Program trust fund created by House Bill No. 1400.

SECTION 7. REVENUE DEDICATIONS. Effective August 30, 1999, the following dedications of revenue to existing funds or accounts in the state treasury or otherwise collected by a state agency are exempt from Section 2 of this Act, if dedicated by an Act of the 76th Legislature, Regular Session, 1999, that becomes law:

(1) the revenue dedicated by House Bill No. 89 to the state highway fund;

(2) the revenue dedicated by House Bill No. 1573 to the water resource management account;

(3) the revenue dedicated by House Bill No. 1739 to the Texas statewide emergency services personnel retirement fund;

(4) revenue dedicated by House Bill No. 1828 to the game, fish, and water safety account;

(5) revenue dedicated by House Bill No. 2004 to the state highway fund;

(6) revenue dedicated by Senate Bill No. 514 to the state highway fund;

(7) revenue dedicated by Senate Bill No. 812 to the state oil-field cleanup account; and

(8) revenue donated as provided by Senate Bill No. 673 for the anatomical gift education program.

SECTION 8. FEDERAL FUNDS. Section 2 of this Act does not apply to funds created pursuant to an Act of the 76th Legislature, Regular Session, 1999, for which separate accounting is required by federal law, except that the funds shall be deposited in accounts in the general revenue fund unless otherwise required by federal law.

SECTION 9. TRUST FUNDS. (a) Except as provided by Subsection (b) of this section, Section 2 of this Act does not apply to trust funds or dedicated revenue deposited to trust funds created under an Act of the 76th Legislature, Regular Session, 1999, except that the trust funds shall be held in the state treasury, with the comptroller in trust, or outside the state treasury with the comptroller's approval.

(b) Section 2 of this Act applies to:

(1) the child-care worker student loan assistance trust fund created by House Bill No. 1689;

(2) the family trust fund created by House Bill No. 2442;

(3) the smart jobs rainy day fund created by House Bill No. 3657;

(4) the public employees long-term care fund created by Senate Bill No. 97;

(5) the Pan American Games trust fund created by Senate Bill No. 456;

(6) the employees' health care stabilization trust fund created by Senate Bill No. 1130;

(7) the Texas Turnpike Authority feasibility study fund, the Texas Turnpike Authority project revolving fund, and any other trust funds re-created by House Bill No. 2311; and

(8) the system benefit fund created by Senate Bill No. 7.

SECTION 10. BOND FUNDS. Section 2 of this Act does not apply to bond funds and pledged funds created or affected by an Act of the 76th Legislature, Regular Session, 1999, except that the funds shall be held in the state treasury, with the comptroller in trust, or outside the state treasury with the comptroller's approval.

SECTION 11. CONSTITUTIONAL FUNDS. Section 2 of this Act does not apply to funds or accounts that would be created or re-created in the Texas Constitution or revenue that would be dedicated or rededicated by the Texas Constitution under constitutional amendments proposed by the 76th Legislature, Regular Session, 1999, or to dedicated revenue deposited to funds or accounts that would be so created or re-created.

SECTION 12. COURT COSTS. Effective August 30, 1999, revenue consisting of court costs authorized by an Act of the 76th Legislature, Regular Session, 1999, that becomes law are exempt from Section 2 of this Act.

SECTION 13. LICENSE PLATE FEES. Effective August 30, 1999, revenue consisting of fees collected from the sale of motor vehicle license plates that are authorized by an Act of the 76th Legislature, Regular Session, 1999, that becomes law are exempt from Section 2 of this Act.

SECTION 14. AMENDMENT. Effective September 1, 1999, Section 403.095, Government Code, is amended to read as follows:

Sec. 403.095. USE OF DEDICATED REVENUE. (a) Revenue that has been set aside by law for a particular purpose or entity is available for that purpose or entity to the extent money is appropriated for that purpose or entity. Expenditures made in furtherance of the dedicated purpose or entity shall be made from money received from the dedicated revenue source to the extent those funds are appropriated.

(b) Notwithstanding any law dedicating or setting aside revenue for a particular purpose or entity, dedicated revenues that, on August 31, 2001, are estimated to [1999,] exceed the amount appropriated by the General Appropriations Act or other laws enacted by the 76th Legislature are available for general governmental purposes and are considered available for the purpose of certification under Section 403.121.

(c) The comptroller shall develop accounting and revenue estimating procedures so that each dedicated account maintained in the general revenue fund can be separately identified as to balances of cash and other assets and the amounts of revenues and expenditures and appropriations for each fiscal year.

(d) Following certification of the General Appropriations Act and other appropriations measures enacted by the 76th Legislature, the comptroller shall reduce each dedicated account as directed by the legislature by an [the] amount that may not

exceed the amount by which estimated revenues and unobligated balances exceed appropriations. The reductions may be made in the amounts and at the times necessary for ~~so that~~ cash flow considerations to allow all the dedicated accounts to maintain adequate cash balances to transact routine business. The legislature may authorize, in the General Appropriations Act, the temporary delay of the excess balance reduction required ~~for accounts~~ under this subsection ~~that exceed the amount appropriated for the dedicated purposes~~. This subsection does not apply to revenues or balances in:

- (1) funds outside the treasury;
- (2) trust funds, which for purposes of this section include funds that may or are required to be used in whole or in part for the acquisition, development, construction, or maintenance of state and local government infrastructures, recreational facilities, or natural resource conservation facilities;
- (3) funds created by the constitution or a court; or
- (4) funds for which separate accounting is required by federal law.

~~(e) This section [(c) The availability of revenues for general governmental purposes conferred by Subsection (b)] expires on September 1, 2001 [1999].~~

SECTION 15. AMENDMENT. Section 771.072, Health and Safety Code, is amended by adding Subsection (g) to read as follows:

(g) Notwithstanding any other law, revenue derived from the equalization surcharge imposed under this section may be appropriated to the commission only for the purposes described by Sections 773.122 through 773.124.

SECTION 16. AMENDMENT. Section 773.122, Health and Safety Code, is amended to read as follows:

Sec. 773.122. PAYMENTS FROM THE ACCOUNT ~~[FUND]~~. (a) The commissioner, with advice and counsel from the chairpersons of the regional advisory councils, shall use money in the account established under Section 771.072(f) ~~[emergency medical services and trauma care system fund established under Section 773.121]~~ to fund county and regional emergency medical services and trauma care systems in accordance with this section.

(b) The commissioner shall maintain a reserve of \$250,000 of money appropriated from the account ~~[emergency medical services and trauma care system fund]~~ for extraordinary emergencies.

(c) In any fiscal year the commissioner shall use at least 70 percent of the appropriated money remaining in the account ~~[emergency medical services and trauma care system fund]~~, after any amount necessary to maintain the reserve established by Subsection (b) is deducted, to fund, in connection with an effort to provide coordination with the appropriate trauma support area, the cost of supplies, operational expenses, education and training, equipment, vehicles, and communications systems for local emergency medical services. The money shall be distributed to counties on behalf of eligible recipients. A county's share of the money shall be based on the relative geographic size and population of the county and on the relative number of emergency or trauma care runs performed by eligible recipients in the county. Money that is not disbursed by a county to eligible recipients for approved functions by the end of the fiscal year in which the funds were disbursed to the county shall be returned to the account ~~[fund]~~ to be used in accordance with Subsection (f).

(d) In any fiscal year, the commissioner may use not more than 25 percent of the appropriated money remaining in the account ~~[emergency medical services and trauma care system fund]~~, after any amount necessary to maintain the reserve established by Subsection (b) is deducted, for operation of the 22 trauma support areas

and for equipment, communications, and education and training for the areas. Money distributed under this subsection shall be distributed to the county in which the chairperson of an area's regional advisory council sits on behalf of eligible recipients. A regional advisory council's share of money distributed under this section shall be based on the relative geographic size and population of each trauma support area and the relative amount of trauma care provided. Money that is not disbursed by a county to eligible recipients for approved functions by the end of the fiscal year in which the funds were disbursed to the county shall be returned to the account [fund] to be used in accordance with Subsection (f).

(e) In any fiscal year, the commissioner may use not more than three percent of the appropriated money remaining in the account [~~emergency medical services and trauma care system fund~~] after any amount necessary to maintain the reserve established by Subsection (b) is deducted to fund the administrative costs of the bureau of emergency management of the department associated with administering the state emergency medical services program, the trauma program, and the account [fund] and to fund the costs of monitoring and providing technical assistance for those programs and that account [fund].

(f) In any fiscal year, the commissioner shall use at least two percent of the appropriated money remaining in the account [~~emergency medical services and trauma care system fund~~] after any amount necessary to maintain the reserve established by Subsection (b) is deducted and the money in the account [fund] not otherwise distributed under this section to fund a portion of the uncompensated trauma care provided at facilities designated as state trauma facilities by the department. A regional advisory council chairperson may petition the department for disbursement of funds to a trauma center in the chairperson's trauma support area that has suffered deleterious effects due to uncompensated trauma care. Funds may be disbursed under this subsection based on a proportionate share of uncompensated trauma care provided in the state and may be used to fund innovative projects to enhance the delivery of patient care in the overall emergency medical services and trauma care system.

(g) The department shall review the percentages for disbursement of funds in the account [~~emergency medical services and trauma care system fund~~] on an annual basis and shall make recommendations for proposed changes to ensure that appropriate and fair funding is provided under this section.

SECTION 17. AMENDMENT. Sections 773.123(a) and (b), Health and Safety Code, are amended to read as follows:

(a) Except as provided by Subsection (b), money distributed from the account established under Section 771.072(f) [~~emergency medical services and trauma care system fund~~] shall be used in accordance with Section 773.122 on the authorization of the chief executive of the county to which the money is disbursed on vouchers issued by the county's treasurer.

(b) In a county with a population of 291,000 or more, money distributed from the account [~~emergency medical services and trauma care system fund~~] shall be used in accordance with Section 773.122 on the joint authorization of the chief executive of the county to which the money is disbursed and the mayor of the principal municipality in that county on vouchers issued by the county's treasurer.

SECTION 18. REPEALER. Section 403.096, Government Code, and Sections 771.071(g) and 773.121, Health and Safety Code, are repealed.

SECTION 19. EFFECT OF ACT. This Act prevails over any other Act of the 76th Legislature, Regular Session, 1999, regardless of the relative dates of enactment, that purports to create or re-create a special fund or account in the state treasury or to

dedicate or rededicate revenue to a particular purpose, including any fund, account, or revenue dedication abolished under former Section 403.094, Government Code. Revenues that, under the terms of another Act of the 76th Legislature, Regular Session, 1999, would be deposited to the credit of a special account or fund shall be deposited to the credit of the unobligated portion of the general revenue fund, unless the fund, account, or dedication is exempted under this Act.

**SECTION 20. EMERGENCY.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

By unanimous consent, the amendment was read and was adopted by a viva voce vote.

On motion of Senator Ratliff and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 3084** as amended was finally passed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

### MESSAGE FROM THE HOUSE

HOUSE CHAMBER

Austin, Texas

May 24, 1999

The Honorable President of the Senate  
Senate Chamber  
Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

THE HOUSE HAS PASSED THE FOLLOWING MEASURES:

**HCR 265**, Honoring former State Representative Susan Gurley McBee of Del Rio.

**HCR 273**, Honoring the retirement of Lubbock Monterey High School baseball coach Bobby Moegle.

**HCR 289**, Commending Dan N. MacLemore III on his selection as moderator of the Presbytery of New Covenant.

**HCR 292**, Recalling **HB 2354** from the governor.

**HCR 295**, Instructing the enrolling clerk of the house to make corrections in **HB 2617**.

**SB 7**, Relating to electric utility restructuring and to the powers and duties of the Public Utility Commission of Texas, Office of Public Utility Counsel, and Texas Natural Resource Conservation Commission; providing penalties.  
(Committee Substitute/Amended)

**SB 23**, Relating to the duration of certain emergency protection orders issued by magistrates.

(Amended)

**SB 30**, Relating to parental notification before an abortion may be performed on certain minors; providing a criminal penalty.

(Committee Substitute/Amended)

**SB 63**, Relating to the expiration or suspension of an alcoholic beverage license or permit.

**SB 76**, Relating to requiring the Texas Natural Resource Conservation Commission to develop a water supply model for the Rio Grande.

(Amended)

**SB 79**, Relating to the employment and supervision of the executive director of the Texas Department of Housing and Community Affairs.

(Committee Substitute)

**SB 86**, Relating to the protection of telecommunications and electric services customers; providing penalties.

(Committee Substitute/Amended)

**SB 99**, Relating to testing for accidental exposure to hepatitis B or hepatitis C.

(Amended)

**SB 131**, Relating to the notice required to be posted at a hospital or nursing home prohibiting the carrying of a handgun by a person licensed to carry a concealed handgun.

**SB 139**, Relating to residential fire suppression devices and to an insurance premium discount for the installation of such a device.

(Committee Substitute)

**SB 152**, Relating to the punishment for escape committed by certain juveniles in the custody of the Texas Youth Commission.

**SB 171**, Relating to expanding the Legion of Valor license plate privilege to the unmarried surviving spouses of veterans.

**SB 199**, Relating to management of real property and construction and management of certain improvements by the Texas Department of Mental Health and Mental Retardation.

(Committee Substitute)

**SB 209**, Relating to surrogate decision-making regarding treatment of certain individuals with mental retardation or related conditions.

**SB 215**, Relating to the liability of certain health care providers.

**SB 231**, Relating to a statewide campaign to encourage persons to enter the technology workforce.

**SB 258**, Relating to the applicability of the Hazard Communication Act to certain inmates of the Texas Department of Criminal Justice.

**SB 260**, Relating to the expulsion of a public school student who assaults a school employee or volunteer.

(Amended)

**SB 294**, Relating to the appointment of probate masters for certain courts.

(Amended)

**SB 296**, Relating to the validation of all acts, governmental proceedings, officials, bonds, and obligations of navigation districts and port authorities.

**SB 307**, Relating to the postal service instructions for return service included on the exterior of an ad valorem tax bill.

**SB 315**, Relating to authorizing the use of certain prepaid tuition contracts to cover an additional period of attendance at an institution of higher education or attendance at a proprietary school.

(Committee Substitute)

**SB 322**, Relating to special license plates benefitting the Girl Scouts.

(Committee Substitute)

**SB 352**, Relating to requirements for membership on or employment by the Board of Pardons and Paroles.

**SB 374**, Relating to the provision of certain long-term care services, to the continuation and functions of the Texas Department on Aging, and to the eventual consolidation of the Texas Department of Human Services and the Texas Department on Aging into a new agency on aging and disability services.

(Amended)

**SB 424**, Relating to the examination required for certification as a court reporter.

**SB 446**, Relating to procedures governing certain ad valorem tax refunds.

**SB 450**, Relating to markings required on certain vehicles; creating an offense.

**SB 451**, Relating to sales of cigarettes or tobacco products in package stores.

**SB 456**, Relating to facilitating and supporting efforts of certain municipalities to promote economic development by hosting the Pan American Games and the Olympic Games; providing a penalty.

(Committee Substitute/Amended)

**SB 486**, Relating to the processing or disposing of solid waste.

(Amended)

**SB 519**, Relating to testing for certain infections during pregnancy or on delivery of a child.

**SB 521**, Relating to certain functions of the comptroller of public accounts involving ad valorem taxation.

**SB 529**, Relating to reporting and delivering unclaimed property to the comptroller.

(Amended)

**SB 551**, Relating to administrative sanctions for the sale or delivery of alcoholic beverages to unauthorized persons by certain distributors or wholesalers.



**SB 567**, Relating to the penalty for disclosing a person's human immunodeficiency virus status.

**SB 577**, Relating to the duties of and procedures affecting a court clerk with respect to certain criminal matters.

**SB 590**, Relating to the establishment of The Texas A&M University System Coastal Bend Health Education Center.  
(Amended)

**SB 613**, Relating to the disclosure of certain records maintained or obtained by the comptroller of public accounts.  
(Committee Substitute)

**SB 616**, Relating to the financial obligations of the state under a contract between the Texas Lottery Commission and a lottery operator.

**SB 621**, Relating to conditions of employment for peace officers employed by certain transportation authorities.

**SB 627**, Relating to directing the Parks and Wildlife Department to work with federal, state, and local agencies to mitigate environmental damage.  
(Amended)

**SB 639**, Relating to the issuance of special license plates to fund tourism activities of the department of economic development.  
(Committee Substitute)

**SB 640**, Relating to display of the POW/MIA flag.  
(Amended)

**SB 641**, Relating to the reference to the Korean Conflict in the statute authorizing special license plates for Korea veterans.

**SB 677**, Relating to the creation and operation of the Windstorm Building Code Advisory Committee on Specifications and Maintenance.  
(Committee Substitute)

**SB 682**, Relating to the designated route of La Entrada al Pacifico Corridor.  
(Amended)

**SB 707**, Relating to an exemption from sand and gravel permit requirements.

**SB 734**, Relating to the number of certified peace officers commissioned and employed by the office of the attorney general.

**SB 735**, Relating to contracts for the repair or maintenance of certain equipment and vehicles of the Texas Department of Transportation.

**SB 785**, Relating to autopsy reports.

**SB 792**, Relating to a requirement that a payor of the proceeds from the sale of gas produced from certain gas wells furnish certain information to the payee.

**SB 805**, Relating to the investment of the higher education fund.

**SB 846**, Relating to certain fees and penalties applicable to the regulation of barbers.

**SB 851**, Relating to an application for issuance of a subpoena.  
(Amended)

**SB 853**, Relating to requiring the comptroller of public accounts to post reports on the Internet.

**SB 862**, Relating to donation of organs.

**SB 872**, Relating to the lease, transfer, sale, or exchange of Parks and Wildlife Department lands.

**SB 913**, Relating to the establishment and maintenance of one-stop border inspection stations by the Texas Department of Transportation in Brownsville, Laredo, and El Paso.  
(Amended)

**SB 916**, Relating to notices of open meetings posted by the secretary of state.

**SB 926**, Relating to the pooling of turnpike projects.

**SB 934**, Relating to the issuance of permits for overweight vehicles in certain counties.

**SB 953**, Relating to vacating a judgment in a delinquent tax suit.

**SB 956**, Relating to the regulation of certain insurance agents and to the consolidation of insurance agent licenses; providing penalties.  
(Committee Substitute/Amended)

**SB 957**, Relating to the licensing of certain persons who provide services related to the business of insurance.  
(Committee Substitute/Amended)

**SB 964**, Relating to the regulation of dentists and dental hygienists.  
(Committee Substitute)

**SB 965**, Relating to granting limited state law enforcement authority to commissioned law enforcement officers of the National Park Service.

**SB 974**, Relating to the creation of a task force and demonstration project regarding the provision of certain state agency and local government services to the general public and to regulated entities through the Internet.

**SB 977**, Relating to exemptions from ad valorem and sales and use taxation of certain timber and certain items used in timber operations and the valuation of certain timber land for ad valorem tax purposes.

**SB 982**, Relating to persons authorized to provide diabetes self-management training.  
(Committee Substitute)

**SB 987**, Relating to the issuance of Texas Young Lawyers Association license plates.

**SB 1020**, Relating to telephone prepaid calling services; providing penalties.

**SB 1030**, Relating to the use of a prescription drug formulary by a group health benefit plan.

**SB 1074**, Relating to the licensing of mortgage brokers; providing penalties.  
(Committee Substitute/Amended)

**SB 1116**, Relating to an exception to the offense of contributing to the delinquency of a narcotic addict.

**SB 1118**, Relating to the adoption by the governing body of a taxing unit of an ad valorem tax rate.  
(Committee Substitute)

**SB 1122**, Relating to circumstances in which cigarettes may not be affixed with stamps or sold; providing penalties.  
(Amended)

**SB 1165**, Relating to the designation of water quality protection zones.  
(Amended)

**SB 1175**, Relating to the regulation of land development by a political subdivision that affects certain property in or near certain road districts.  
(Amended)

**SB 1185**, Relating to the permissible number of commissioners of certain public housing authorities.  
(Committee Substitute)

**SB 1197**, Relating to the appointment of a trustee and the expenditure of emergency assistance funds for a nursing or convalescent home; providing penalties.  
(Committee Substitute)

**SB 1204**, Relating to the elements of and damages for trespass relating to billboards or other outdoor advertising.

**SB 1217**, Relating to the disclosure of certain information concerning the mental health of a person detained in a correctional facility.

**SB 1220**, Relating to highway beautification; providing civil penalties.  
(Amended)

**SB 1223**, Relating to the regulation of the practice of acupuncture.  
(Amended)

**SB 1234**, Relating to the expansion and funding of the Texas Integrated Funding Initiative of the Health and Human Services Commission.  
(Committee Substitute)

**SB 1235**, Relating to the use of a medical practitioner's Federal Drug Enforcement Administration number; creating an offense.  
(Amended)

**SB 1254**, Relating to late applications for certain ad valorem tax exemptions.

**SB 1277**, Relating to the uses of impact fees charged by municipal utility districts.

**SB 1290**, Relating to the requirements for the conveyance of an interest in real property from a political subdivision to an institution of higher education.

**SB 1292**, Relating to monitoring the financial condition of certain nursing facilities licensed by the Texas Department of Human Services; providing penalties.

**SB 1293**, Relating to permits to administer medication to residents of nursing and convalescent homes and certain related institutions.

**SB 1302**, Relating to the authority of the Parks and Wildlife Department to withhold licenses and permits and to confiscate certain products.

**SB 1310**, Relating to providing for representation of agricultural interests in water resource planning and management.

**SB 1319**, Relating to procedures for tax auditing and collection.

**SB 1321**, Relating to the settlement and collection of taxes and penalties and interest on taxes, refunds, and credits.

**SB 1340**, Relating to the regulation of anesthesia in certain outpatient settings.  
(Amended)

**SB 1346**, Relating to the State Commission on Judicial Conduct.

**SB 1351**, Relating to health benefits plan coverage for dependent children of certain employees paid by state appropriated money.  
(Amended)

**SB 1354**, Relating to longevity pay for certain state employees.  
(Committee Substitute)

**SB 1359**, Relating to the rendition and appraisal of property for ad valorem tax purposes.

**SB 1361**, Relating to the use of a declaration for mental health treatment.

**SB 1378**, Relating to the review of medical training needs for health care professionals in the Texas-Mexico border region.

**SB 1379**, Relating to a study on the use of Fort Bliss for Texas National Guard training.

**SB 1382**, Relating to the technology access clause in certain state contracts.

**SB 1391**, Relating to the review by the Texas Workforce Commission of the allocation of certain funds for child care.

**SB 1419**, Relating to the referral and reporting of delinquent obligations to the attorney general.

**SB 1423**, Relating to providing supplemental financial assistance and services to certain grandparents.  
(Committee Substitute)

**SB 1442**, Relating to the removal of certain territory from an emergency services district.

**SB 1514**, Relating to contracts for the use of inmate labor and the labor of persons placed on community supervision for state highway system improvement projects.  
(Amended)

**SB 1525**, Relating to the practice of dietetics.

(Amended)

**SB 1532**, Relating to the regulation of renderers.

**SB 1547**, Relating to the collection of the tax on motor fuels; providing penalties.

(Committee Substitute)

**SB 1569**, Relating to the leasing of classroom space for an institution of higher education.

(Committee Substitute/Amended)

**SB 1571**, Relating to venue in certain proceedings concerning juvenile delinquency or conduct indicating a need for supervision.

**SB 1578**, Relating to the creation of a statewide law enforcement gang resource system.

(Amended)

**SB 1587**, Relating to the detection of fraud, waste, and abuse in the state Medicaid program.

(Committee Substitute)

**SB 1591**, Relating to implementing national standards for the electronic processing of health care and health payment information.

**SB 1593**, Relating to the development of a water supply reservoir project at the Allens Creek Reservoir site in Austin County, Texas, and providing for the issuance of certain water rights permits to the Texas Water Development Board.

**SB 1603**, Relating to the receipt and expenditure of revenue derived from the municipal hotel occupancy tax.

(Committee Substitute)

**SB 1615**, Relating to the creation and operation of health services districts; granting the authority to issue bonds.

(Amended)

**SB 1640**, Relating to transportation of certain alcoholic beverages.

**SB 1664**, Relating to the application of the proportionate retirement program to certain public retirement systems under which employees may be transferred.

(Committee Substitute)

**SB 1665**, Relating to the authority of certain navigation districts to acquire land, equipment, or improvements and issue bonds.

**SB 1718**, Relating to alternative dispute resolution systems established by counties.

**SB 1734**, Relating to the limit on amounts that may be awarded for pecuniary loss to certain applicants under the Crime Victims' Compensation Act.

**SB 1763**, Relating to certain fees charged at certain institutions of higher education.

(Committee Substitute)

**SB 1794**, Relating to powers and duties of the Red River Redevelopment Authority; validating certain acts of the authority.

**SB 1851**, Relating to public access to governmental information and decisions, including revisions to the public information law.

(Amended)

**SB 1862**, Relating to the state participation program of the Texas Water Development Board.

(Committee Substitute)

**SB 1881**, Relating to the powers, duties, and operations of the Nacogdoches County Hospital District.

(Amended)

**SB 1883**, Relating to certain rates charged by a gas utility or municipally owned utility to a state agency.

**SCR 2**, Memorializing the U.S. Congress to provide for more customs inspection lanes and officials and for 24-hour customs operations, at border crossings between Texas and Mexico.

**SCR 9**, Endorsing the establishment of the Texas Institute of Science and Technology.

**SCR 22**, In memory of Galveston County Commissioner Wayne Johnson.

**SCR 40**, Requesting the lieutenant governor and speaker to initiate joint sessions with legislators of bordering Mexican states to establish communications on issues pertinent to the region.

**SCR 42**, Recognizing the Centro Alameda/Centro de Artes Latino Museum as the official Texas State Latino Museum.

**SCR 84**, Recalling **SB 525** from the governor.

**SJR 22**, Proposing a constitutional amendment increasing the maximum size of an urban homestead to 10 acres, prescribing permissible uses of urban homesteads, and preventing the overburdening of a homestead.

THE HOUSE HAS CONCURRED IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES:

**HB 82** (Viva-voce vote)

**HB 156** (Viva-voce vote)

**HB 385** (141 ayes, 0 nays, 1 present not voting)

**HB 792** (Viva-voce vote)

**HB 820** (Viva-voce vote)

**HB 1151** (Viva-voce vote)

**HB 1194** (Viva-voce vote)

**HB 1346** (143 ayes, 0 nays, 1 present not voting)

**HB 1418** (122 ayes, 13 nays, 2 present not voting)

**HB 1428** (Viva-voce vote)

**HB 1475** (Viva-voce vote)

**HB 1491** (143 ayes, 0 nays, 1 present not voting)

**HB 1513** (Viva-voce vote)

**HB 1521** (143 AYES, 0 NAYS, 1 PRESENT NOT VOTING)

**HB 1543** (Viva-voce vote)  
**HB 1544** (Viva-voce vote)  
**HB 1628** (Viva-voce vote)  
**HB 1652** (Viva-voce vote)  
**HB 1752** (Viva-voce vote)  
**HB 1810** (Viva-voce vote)  
**HB 1814** (Viva-voce vote)  
**HB 1822** (Viva-voce vote)  
**HB 1860** (Viva-voce vote)  
**HB 1864** (Viva-voce vote)  
**HB 1952** (Viva-voce vote)  
**HB 1987** (139 AYES, 0 NAYS, 1 PRESENT NOT VOTING)  
**HB 2011** (Viva-voce vote)  
**HB 2070** (Viva-voce vote)  
**HB 2105** (Viva-voce vote)  
**HB 2159** (142 AYES, 0 NAYS, 1 PRESENT NOT VOTING)  
**HB 2165** (Viva-voce vote)  
**HB 2171** (142 AYES, 0 NAYS, 1 PRESENT NOT VOTING)  
**HB 2180** (144 AYES, 0 NAYS, 1 PRESENT NOT VOTING)  
**HB 2255** (Viva-voce vote)  
**HB 2307** (Viva-voce vote)  
**HB 2401** (Viva-voce vote)  
**HB 2424** (Viva-voce vote)  
**HB 2631** (140 AYES, 0 NAYS, 1 PRESENT NOT VOTING)  
**HB 2844** (Viva-voce vote)  
**HB 2877** (Viva-voce vote)  
**HB 3050** (141 AYES, 0 NAYS, 1 PRESENT NOT VOTING)  
**HB 3081** (Viva-voce vote)  
**HB 3092** (143 AYES, 0 NAYS, 1 PRESENT NOT VOTING)  
**HB 3130** (Viva-voce vote)  
**HB 3300** (Viva-voce vote)  
**HB 3467** (Viva-voce vote)  
**HB 3504** (Viva-voce vote)  
**HB 3515** (143 AYES, 0 NAYS, 1 PRESENT NOT VOTING)  
**HB 3650** (Viva-voce vote)  
**HJR 74** (140 ayes, 0 nays, 1 present not voting)  
**HJR 95** (143 AYES, 0 NAYS, 1 PRESENT NOT VOTING)

THE HOUSE HAS REFUSED TO CONCUR IN SENATE AMENDMENTS TO THE FOLLOWING MEASURES AND REQUESTS THE APPOINTMENT OF A CONFERENCE COMMITTEE TO ADJUST THE DIFFERENCES BETWEEN THE TWO HOUSES:

**HB 211**

House Conferees: Hochberg - Chair/Dunnam/Greenberg/Lengefeld/Smith

**HB 564**

House Conferees: Oliveira - Chair/Chavez/Cuellar/Gallego/Pickett

**HB 597**

House Conferees: Flores - Chair/Chisum/Cook/Hinojosa/McReynolds

**HB 1188**

House Conferees: Gallego - Chair/Coleman/Hupp/Keel/Turner, Bob

**HB 1453**

House Conferees: Smith - Chair/Moreno, Joe/Seaman/Smithee/Thompson

**HB 1498**

House Conferees: Janek - Chair/Eiland/Siebert/Smithee/Van de Putte

**HB 1620**

House Conferees: Wohlgemuth - Chair/Alexander/Hill/Siebert/Walker

**HB 1799**

House Conferees: King, Phil - Chair/Coleman/Eiland/Pitts/Wilson

**HB 1833**

House Conferees: Counts - Chair/Capelo/Deshotel/Garcia/Hinojosa

**HB 1933**

House Conferees: Lewis, Glenn - Chair/Chisum/Farabee/Ramsay/Salinas

**HB 2224**

House Conferees: Solomons - Chair/Brimer/Dukes/George/Ritter

**HB 2409**

House Conferees: King, Tracy - Chair/Hawley/Hill/Pickett/Siebert

**HB 2641**

House Conferees: Gray - Chair/Bosse/McCall/Turner, Sylvester/Wolens

**HB 2684**

House Conferees: Coleman - Chair/Bonnen/Davis, Yvonne/Hilbert/King, Tracy

**HB 2821**

House Conferees: McCall - Chair/Bonnen/Davis, Yvonne/Keffer/Oliveira

**HB 3016**

House Conferees: Smithee - Chair/Burnam/Eiland/Seaman/Wise

**HB 3021**

House Conferees: Smithee - Chair/Lewis, Glenn/Naishtat/Olivo/Seaman

**HB 3029**

House Conferees: Oliveira - Chair/Hinojosa/Luna/Seaman/Solis, Jim

**HB 3182**

House Conferees: Grusendorf - Chair/Brimer/George/Ritter/Woolley

**HB 3620**

House Conferees: Lewis, Ron - Chair/Cook/Counts/Hamric/Walker

**HB 3693**

House Conferees: Hunter - Chair/Chavez/Davis, John/Naishtat/Van de Putte

**HB 3697**

House Conferees: Siebert - Chair/Bailey/Brimer/Eiland/Ritter

**HB 3778**

House Conferees: Luna - Chair/Gallego/McCall/Noriega/Olivo



**HB 3793**

House Conferees: Averitt - Chair/Counts/Dunnam/Lewis, Ron/Wohlgemuth

THE HOUSE HAS GRANTED THE REQUEST OF THE SENATE FOR THE APPOINTMENT OF A CONFERENCE COMMITTEE ON THE FOLLOWING MEASURES:

**SB 8**

House Conferees: Goodman - Chair/Lewis, Glenn/Pickett/Reyna, Arthur/Truitt

**SB 61**

House Conferees: Clark - Chair/Christian/Hilderbran/Maxey/Uresti

**SB 138**

House Conferees: Hochberg - Chair/Dunnam/Smith/Smithee/Wolens

**SB 178**

House Conferees: Junell - Chair/Davis, Yvonne/Flores/Heflin/Oliveira

**SB 365**

House Conferees: McCall - Chair/Bosse/Ellis/Gray/Haggerty

**SB 370**

House Conferees: Bosse - Chair/Gray/McCall/Turner, Bob/Wilson

**SB 1207**

House Conferees: McCall - Chair/Bosse/Glaze/Gray/Maxey

**SB 1230**

House Conferees: Thompson - Chair/Deshotel/Hinojosa/Solis, Jim/Tillery

**SJR 12**

House Conferees: Hochberg - Chair/Averitt/Greenberg/Pitts/Wolens

THE HOUSE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**HB 2025** (139 ayes, 1 nay, 1 present not voting)

**SB 445** (Viva-voce vote)

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

**HOUSE BILL 1018 ON SECOND READING**

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1018**, Relating to participation of cities and counties in the National Flood Insurance Program.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 1018 ON THIRD READING**

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1018** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 1018** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**GUESTS PRESENTED**

Senator Barrientos was recognized and introduced to the Senate a group of fourth-grade students from Pease Elementary School in Austin, accompanied by their teachers.

The Senate welcomed its guests.

**HOUSE BILL 1678 ON SECOND READING**

On motion of Senator Barrientos and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1678**, Relating to the creation of a uniform strategy to attract a student population that reflects the population of the state at institutions of higher education.

The bill was read second time and was passed to third reading by a viva voce vote.

**RECORD OF VOTES**

Senators Ogden and Shapiro asked to be recorded as voting "Nay" on the passage of the bill to third reading.

**(President in Chair)**

**HOUSE BILL 1678 ON THIRD READING**

Senator Barrientos moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1678** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ratliff, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Ogden, Shapiro.

Absent-excused: Luna.

**HB 1678** was read third time and was passed by a viva voce vote.

## RECORD OF VOTES

Senators Ogden and Shapiro asked to be recorded as voting "Nay" on the final passage of the bill.

## GUEST PRESENTED

The President introduced to the Senate Katheryn Patterson, mother of Senator Carona.

The Senate welcomed Mrs. Patterson.

## HOUSE BILL 855 ON SECOND READING

On motion of Senator Truan and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 855**, Relating to the use of proceeds from criminal asset forfeiture to provide financial assistance to a person pursuing certain law enforcement studies.

The bill was read second time and was passed to third reading by a viva voce vote.

## HOUSE BILL 855 ON THIRD READING

Senator Truan moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 855** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 855** was read third time and was passed by a viva voce vote.

## HOUSE BILL 1876 ON SECOND READING

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1876**, Relating to theft of or tampering with multichannel video or information services; providing penalties.

The bill was read second time and was passed to third reading by a viva voce vote.

## HOUSE BILL 1876 ON THIRD READING

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1876** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 1876** was read third time.

Senator Whitmire offered the following amendment to the bill:

### Floor Amendment No. 1

Amend **HB 1876** as follows:

(1) In SECTION 2 of the bill, in amended Subsection (a), Section 31.13, Penal Code (Senate Committee Printing, page 3, line 6), between "with an intent to aid" and "an offense", insert "in the commission of".

(2) In SECTION 3 of the bill, in proposed Subsection (a), Section 31.14, Penal Code (Senate Committee Printing, page 3, lines 26 and 27), strike the language between "intentionally or knowingly" and "a device" and substitute "sells or leases, with an intent to aid in the commission of an offense under Section 31.12,".

(3) In SECTION 3 of the bill, in proposed Subsection (a), Section 31.14, Penal Code (Senate Committee Printing, page 3, lines 31-34), strike the language between "information services provider" and the period at the end of the subsection.

(4) Strike SECTION 5 of the bill and renumber the existing SECTIONS of the bill accordingly.

By unanimous consent, the amendment was read and was adopted by a viva voce vote.

On motion of Senator Whitmire and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 1876** as amended was finally passed by a viva voce vote.

### BILLS AND RESOLUTIONS SIGNED

The President announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

**HB 57, HB 79, HB 110, HB 302, HB 494, HB 633, HB 751, HB 865, HB 897, HB 907, HB 908, HB 958, HB 1024, HB 1041, HB 1051, HB 1058, HB 1068, HB 1075, HB 1285, HB 1387, HB 1409, HB 1459, HB 1516, HB 1552, HB 1660, HB 1681, HB 1689, HB 1779, HB 1797, HB 1804, HB 1837, HB 1839, HB 2004, HB 2013, HB 2021, HB 2037, HB 2205, HB 2246, HB 2284, HB 2313, HB 2453, HB 2461, HB 2614, HB 2636, HB 2660, HB 2671, HB 2685, HB 2725, HB 2802, HB 2840, HB 2846, HB 2926, HB 2965, HB 2966, HB 3161, HB 3224, HB 3256, HB 3295, HB 3338, HB 3418, HB 3420, HB 3423, HB 3600, HB 3694, HB 3818, HCR 18, HJR 71, HB 385, HB 480, HB 792, HB 1507, HB 1513, HB 1543, HB 1544, HB 1814, HB 1822, HB 1828, HB 1860, HB 1864, HB 2011, HB 2023, HB 2054, HB 2171, HB 2180, HB 2401, HB 2450, HB 2535, HB 2568, HB 2580, HB 2631, HB 2844, HB 2867, HB 2925, HB 3083, HB 3215, HB 3444, HB 3650, HB 3740, HB 3746, HCR 182, HCR 261, HCR 269, HCR 284, HJR 36, HJR 74, HB 82, HB 156, HB 1194, HB 1346, HB 1521, HB 1652, HB 1810, HB 1952, HB 2105, HB 2159, HB 3081, HB 3515, HJR 95.**

(Senator Brown in Chair)

### HOUSE BILL 2534 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2534**, Relating to the appointment of retired or former judges as visiting judges of certain courts.

The bill was read second time and was passed to third reading by a viva voce vote.

### HOUSE BILL 2534 ON THIRD READING

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2534** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 2534** was read third time and was passed by a viva voce vote.

(Senator Armbrister in Chair)

### HOUSE BILL 1172 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1172**, Relating to the definition of low-level radioactive waste.

The bill was read second time.

Senator Brown offered the following committee amendment to the bill:

#### Committee Amendment No. 1

Amend **HB 1172** by striking SECTION 32 of the bill and substituting the following:

"SECTION 32. Section 402.2721, Health and Safety Code, is amended by amending Subsections (d)-(g) and adding Subsection (i) to read as follows:

(d) Fees established under this section shall:

(1) [~~include minimum and maximum annual fees in an amount of at least \$5 million for the 1992-1993 biennium to pay for the estimated costs of administering, implementing, and planning the activities authorized by this chapter and shall include at least \$5 million to reimburse the general revenue fund for appropriations expended and incurred by the authority in selecting, characterizing, and licensing a disposal site;~~

[(2)] take into account[;] the projected annual volume and the relative hazard presented by each type of low-level radioactive waste generated;

(2) [(3)] be collected by the department as provided by Subchapter H, Chapter 401;

(3) [(4)] be deposited in the state treasury to the credit of the low-level radioactive waste fund[; ~~except that at least \$10 million assessed and collected in the 1992-1993 biennium to reimburse the general revenue fund for expenses incurred prior to September 1, 1991, shall be deposited in the state treasury to the credit of the general revenue fund~~];

(4) [(5)] be paid in four quarterly equal installments beginning on January 1, 1992, and annually thereafter; and

(5) [(6)] expire on the date the authority begins operation of a disposal facility.

(e) Fees established under this section may not:

(1) be assessed before the fiscal year following the fiscal year in which the balance in the low-level radioactive waste fund falls below \$4 million;

(2) be assessed in an amount that would result in a total amount of fees assessed that exceeds \$3 million in any fiscal biennium; or

(3) be collected at any time the low-level radioactive waste fund balance is \$9 million or more.

(f) For each [the 1996-1997] biennium [and subsequent bienniums], the board shall assess a surcharge of 10 percent of the fee established for the biennium.

[(f) For the 1994-1995 biennium only, the board shall assess a surcharge of 10 percent of the fee established for the 1992-1993 biennium.]

(g) Surcharges assessed under Subsection [Subsections (e) and] (f) shall be used to fund local public projects under Subchapter I.

(h) In determining relative hazard, the board shall consider the radioactive, physical, and chemical properties of each type of low-level radioactive waste.

(i) On termination of the imposition of fees under Subsection (d)(5), the balance of the low-level radioactive waste fund attributable to planning and implementation fees shall be transferred to a separate account in the fund and credited pro rata to generators who have paid planning and implementation fees. A generator who on the date the imposition of the fees is terminated has paid all planning and implementation fees owed by the generator under this section shall receive a credit equal to the amount of the generator's pro rata share in the account established under this section against waste disposal fees the generator is required to pay under Section 402.272 until the balance of the generator's pro rata share in the account is exhausted. A generator who on the date the imposition of the fees is terminated owes planning and implementation fees under this section is not eligible for the credit."

The committee amendment was read and was adopted by a viva voce vote.

Senator Brown offered the following committee amendment to the bill:

### **Committee Amendment No. 2**

Amend **HB 1172** by striking SECTION 37 of the bill and substituting the following:

"SECTION 37. Sections 401.003(20) and 402.127, Health and Safety Code, are repealed."

The committee amendment was read.

On motion of Senator Brown, Committee Amendment No. 2 was tabled by a viva voce vote.

Senator Brown offered the following amendment to the bill:

### **Floor Amendment No. 1**

Amend **HB 1172** in SECTION 33 of the bill by striking amended Section 402.275(c), Health and Safety Code (Committee Printing, page 11, line 8 through page 12, line 5), and substituting the following:

(c) Money received by the authority, including waste disposal fees, planning and implementation fees, surcharges on planning and implementation fees, processing and packaging fees, civil penalties, payments made by a party state to a low-level radioactive waste compact entered into under Section 402.219(c), [payments to the State of Texas under Public Law 99-240,] and other receipts

collected by the authority under this chapter shall be deposited to the credit of the low-level radioactive waste fund.

The amendment was read and was adopted by a viva voce vote.

Senator Brown offered the following amendment to the bill:

### **Floor Amendment No. 2**

Amend **HB 1172** by adding a new SECTION 5 and a new SECTION 6 to read as follows and renumbering the subsequent sections appropriately:

SECTION 5. Section 401.104, Health and Safety Code, is amended by amending Subsection (a) and (b) and adding Subsection (e) to read as follows:

(a) Except as provided by Subsections [Subsection] (b) and (e), the board by rule shall provide for the general or specific licensing of:

- (1) radioactive material; or
- (2) devices or equipment using radioactive material.

(b) Except as provided by Subsection (e), the [The] commission by rule shall provide for licensing for the disposal of radioactive material except by-product material defined by Section 401.003(3)(B). The department by rule shall provide for licensing the disposal of by-product material defined by Section 401.003(3)(B).

(e) The board or commission may not require a license for a person that is a party to an order issued under Section 361.188 or 361.272 for sites subject to Subchapter F, Chapter 361, or an agreement entered into under Section 361.606. This subsection does not exempt the person from complying with technical standards that a holder of a license otherwise required by this chapter for the particular activity is required to meet. The exemption granted by this subsection applies only to the assessment and remediation of the contamination at the site.

SECTION 6. Section 401.106, Health and Safety Code, is amended to read as follows:

Sec. 401.106. EXEMPTION FROM LICENSING OR REGISTRATION REQUIREMENTS OR FROM APPLICATION OF RULE. (a) The board by rule may exempt a source of radiation or a kind of use or user from the licensing or registration requirements provided by this chapter if the board finds that the exemption of that source of radiation or kind of use or user will not constitute a significant risk to the public health and safety and the environment.

(b) The department or commission, as applicable, may exempt a source of radiation or a kind of use or user from the application of a rule adopted by the department or commission under this chapter if the department or commission, respectively, determines that the exemption:

- (1) is not prohibited by law; and
- (2) will not result in a significant risk to public health and safety and the environment.

(c) Notwithstanding any other law, the commission may, on request or its own initiative, authorize on-site disposal of low-level radioactive waste on a specific basis at any site at which low-level radioactive waste disposal operations began before September 1, 1989, if after evaluation of the specific characteristics of the waste, the disposal site, and the method of disposal, the commission finds that the continuation of the disposal activity will not constitute a significant risk to the public health and safety and to the environment.

The amendment was read and was adopted by a viva voce vote.

Senator Ratliff offered the following amendment to the bill:

**Floor Amendment No. 3**

Amend **HB 1172**, adding an appropriately numbered SECTION to read as follows:

"SECTION \_\_\_\_\_. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Brown and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 1172 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1172** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 1172** was read third time and was passed by a viva voce vote.

**HOUSE BILL 2609 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2609**, Relating to the provision of scholarships, bonuses, and wage supplementation for professional child-care workers.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 2609 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2609** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 2609** was read third time and was passed by a viva voce vote.

**HOUSE BILL 2816 ON SECOND READING**

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:



**HB 2816**, Relating to the fee on delivery of certain petroleum products and programs for corrective actions in response to releases from petroleum storage tanks.

The bill was read second time.

Senator Brown offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 2816** as follows:

On page 1, lines 12-13, strike the word "the" and insert the word "an";

On page 1, line 13, strike the words "specifically appropriated for that purpose" and insert "6.7 percent of the gross receipts of that account."

The committee amendment was read and was adopted by a viva voce vote.

Senator Brown offered the following committee amendment to the bill:

**Committee Amendment No. 2**

Amend **HB 2816** as follows:

On page 4, line 24, strike SECTION 4 in its entirety and renumber the subsequent sections appropriately.

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Brown and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**RECORD OF VOTES**

Senators Bivins, Moncrief, and Ogden asked to be recorded as "Present-not voting" on the passage of the bill to third reading.

**HOUSE BILL 2816 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2816** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 0, Present-not voting 3.

Yeas: Armbrister, Barrientos, Bernsen, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Nelson, Nixon, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Present-not voting: Bivins, Moncrief, Ogden.

Absent-excused: Luna.

**HB 2816** was read third time and was passed by a viva voce vote.

**RECORD OF VOTES**

Senators Bivins, Moncrief, and Ogden asked to be recorded as "Present-not voting" on the final passage of the bill.

**HOUSE BILL 2815 ON SECOND READING**

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2815**, Relating to the petroleum storage tank program; providing a penalty.

The bill was read second time.

Senator Brown offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 2815** as follows:

(1) In SECTION 3 of the bill, in the heading to added Section 26.3467, Water Code (House Engrossment, page 4, line 17), strike "SELLER'S".

(2) In SECTION 3 of the bill, added Section 26.3467, Water Code, strike Subsection (a) (House Engrossment, page 4, lines 18 through 23) and substitute the following:

(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.

(3) In SECTION 3 of the bill, following added Section 26.3467, Water Code (House Engrossment, page 4, between lines 26 and 27), add new Subsection (c) to read as follows:

(c) A person who sells a regulated substance to a common carrier who delivers the regulated substance or 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.

(4) In SECTION 4 of the bill, amended Section 7.156, Water Code, in new Subsection (c), strike "A person commits an offense if the person deposits or has deposited" and substitute "A person commits an offense if the person is an owner or operator of an underground storage tank regulated under Chapter 26 into which any regulated substance is delivered or physically delivers".

The committee amendment was read and was adopted by a viva voce vote.

Senator Ratliff offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2815**, adding an appropriately numbered SECTION to read as follows:

"SECTION \_\_\_\_\_. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Brwon and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**RECORD OF VOTES**

Senators Bivins, Moncrief, and Ogden asked to be recorded as "Present-not voting" on the passage of the bill to third reading.

**HOUSE BILL 2815 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2815** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 27, Nays 0, Present-not voting 3.

Yeas: Armbrister, Barrientos, Bernsen, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Nelson, Nixon, Ratliff, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Present-not voting: Bivins, Moncrief, Ogden.

Absent-excused: Luna.

**HB 2815** was read third time and was passed by a viva voce vote.

**RECORD OF VOTES**

Senators Bivins, Moncrief, and Ogden asked to be recorded as "Present-not voting" on the final passage of the bill.

**HOUSE BILL 2653 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2653**, Relating to the law that applies to a contract made over the Internet.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 2653 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2653** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 2653** was read third time and was passed by a viva voce vote.

**HOUSE BILL 673 ON THIRD READING**

Senator Lindsay asked unanimous consent to suspend the regular order of business to take up for consideration at this time on its third reading and final passage:

**HB 673**, Relating to requiring the use of protective helmets for bicycle safety.

There was objection.

Senator Lindsay then moved to suspend the regular order of business and take up **HB 673** for consideration at this time.

The motion prevailed by the following vote: Yeas 17, Nays 8.

Yeas: Armbrister, Barrientos, Bernsen, Brown, Cain, Duncan, Ellis, Haywood, Lindsay, Madla, Moncrief, Ogden, Shapleigh, Truan, Wentworth, West, Zaffirini.

Nays: Bivins, Carona, Gallegos, Jackson, Nelson, Nixon, Ratliff, Sibley.

Absent: Fraser, Harris, Lucio, Shapiro, Whitmire.

Absent-excused: Luna.

**HB 673** was read third time and was passed by the following vote: Yeas 19, Nays 8.

Yeas: Armbrister, Barrientos, Bernsen, Brown, Cain, Carona, Duncan, Ellis, Fraser, Haywood, Lindsay, Madla, Moncrief, Ogden, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Bivins, Gallegos, Jackson, Nelson, Nixon, Ratliff, Shapiro, Sibley.

Absent: Harris, Lucio, Shapleigh.

Absent-excused: Luna.

**(Senator Brown in Chair)**

### **HOUSE BILL 1140 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1140**, Relating to notice to voter registrars concerning persons convicted of a felony.

The bill was read second time.

Senator Armbrister offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **HB 1140** by striking all below the enacting clause and substituting the following:

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.

The amendment was read and was adopted by a viva voce vote.

Senator Ratliff offered the following amendment to the bill:

### **Floor Amendment No. 2**

Amend **HB 1140**, adding an appropriately numbered SECTION to read as follows:

"SECTION \_\_\_\_\_. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Armbrister and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

### **RECORD OF VOTE**

Senator Shapiro asked to be recorded as voting "Nay" on the passage of the bill to third reading.

### **HOUSE BILL 1140 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1140** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Shapiro.

Absent-excused: Luna.

**HB 1140** was read third time and was passed by a viva voce vote.

### **RECORD OF VOTE**

Senator Shapiro asked to be recorded as voting "Nay" on the final passage of the bill.

### **HOUSE BILL 1342 ON SECOND READING**

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1342**, Relating to the practice of registered nurses and licensed vocational nurses, including the adoption of an interstate compact relating to licensing.

The bill was read second time.

Senator Moncrief offered the following committee amendment to the bill:

### **Committee Amendment No. 1**

Amend **HB 1342** as follows:

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

Sec. 8. In reporting information to the Coordinated Licensure Information System under Article 7 of the Nurse Licensure Compact, the Board of Nurse Examiners and the Board of Vocational Nurse Examiners may disclose personally identifiable information about the nurse including social security number. The Coordinated Licensure Information System may not share personally identifying information with a state not a party to the compact unless the state agrees not to disclose that information to other persons.

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

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

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

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

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

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

by law and by the rules and regulations promulgated by the Board, notice thereof shall immediately be given to such school, hospital or institution. If the requirements of the Board are not complied with within a reasonable time set by the Board in such notices, such institution shall be removed from the list of approved schools, hospitals or institutions offering courses for Vocational Nurses in this State.

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Moncrief and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 1342 ON THIRD READING**

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1342** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 1342** was read third time and was passed by a viva voce vote.

### **COMMITTEE SUBSTITUTE HOUSE BILL 2190 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 2190**, Relating to prima facie evidence for the offense of theft of livestock by check.

The bill was read second time.

Senator Armbrister offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **CSHB 2190** by striking all below the enacting clause and substituting the following:

SECTION 1. Article 21.22, Code of Criminal Procedure, is amended to read as follows:

Art. 21.22. INFORMATION BASED UPON COMPLAINT. (a) No information shall be presented until affidavit has been made by some credible person charging the defendant with an offense. The affidavit shall be filed with the information. It may be sworn to before the district or county attorney who, for that purpose, shall have power to administer the oath, or it may be made before any officer authorized by law to administer oaths.

(b) For purposes of this article, a credible person on whose affidavit an information charging an offense under Chapter 31 or 32, Penal Code, involving a check or sight order may be presented includes, in addition to the holder of the check or sight order, the holder's assignee, agent, or representative or any other person retained by the holder to seek collection of the check or sight order.

SECTION 2. Section 31.06, Penal Code, is amended by amending Subsection (b) and adding Subsections (g) and (h) to read as follows:

(b) For purposes of Subsection (a)(2), ~~or~~ (f)(3), or (g)(2), notice may be actual notice or notice in writing that:

(1) is sent by registered or certified mail with return receipt requested or by telegram with report of delivery requested;

(2) is addressed to the issuer at the issuer's [his] address shown on:

(A) the check or order;

(B) the records of the bank or other drawee; or

(C) the records of the person to whom the check or order has been issued or passed; and

(3) contains the following statement:

"This is a demand for payment in full for a check or order not paid because of a lack of funds or insufficient funds. If you fail to make payment in full within 10 days after the date of receipt of this notice, the failure to pay creates a presumption for committing an offense, and this matter may be referred for criminal prosecution."

(g) If the actor obtained livestock by issuing or passing a check or similar sight order, other than a postdated check or order, for the payment of money on the date the actor took possession of the livestock and the actor did not have sufficient funds in or on deposit with the bank or other drawee for the payment in full of the check or order as well as all other checks or orders then outstanding, it is prima facie evidence of the actor's intent to deprive the owner of property under Section 31.03, including a drawee or third-party holder in due course who negotiated the check, if:

(1) the actor did not have an account with the bank or other drawee at the time that the actor issued the check or order; or

(2) on presentation not later than the 30th day after the date the actor issued the check or order, the bank or other drawee refused payment for lack of funds or insufficient funds and the issuer failed to pay the holder in full not later than the 10th day after the date the actor received notice of that refusal.

(h) In this section, "livestock" has the meaning assigned by Section 142.001, Agriculture Code.

SECTION 3. This Act takes effect September 1, 1999, and applies only to an offense committed on or after that date. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was committed before the effective date of this Act if any element of the offense occurred before that date.

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

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Armbrister and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.



**COMMITTEE SUBSTITUTE  
HOUSE BILL 2190 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2190** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSHB 2190** was read third time and was passed by a viva voce vote.

**HOUSE BILL 2909 ON SECOND READING**

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2909**, Relating to the nursing and convalescent home trust fund.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 2909 ON THIRD READING**

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2909** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 2909** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**HOUSE BILL 3304 ON SECOND READING**

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3304**, Relating to the books and records of certain insurers.

The bill was read second time.

Senator Ratliff offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 3304**, adding an appropriately numbered SECTION to read as follows:

"SECTION \_\_\_\_\_. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Sibley and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 3304 ON THIRD READING**

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3304** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 3304** was read third time and was passed by a viva voce vote.

**(President in Chair)**

### **HOUSE BILL 3272 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3272**, Relating to the enforcement and collection of child support.

The bill was read second time.

Senator Harris offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **HB 3272** as follows:

(1) On page 3, line 22, strike "The" and substitute "Subject to the availability of funds, the".

(2) On page 3, line 22, strike "shall" and substitute "may".

(3) On page 3, line 38, insert the following after the "(1)":  
"a plan to conduct a pilot of the use of the court monitors, in one or more locations;" and renumber the subsequent subsections appropriately.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Harris and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 3272 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3272** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 3272** was read third time and was passed by a viva voce vote.

**HOUSE BILL 3079 ON SECOND READING**

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3079**, Relating to the development and financing of a statewide aquatic vegetation management plan.

The bill was read second time.

Senator Brown offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 3079** as follows:

On page 3, strike lines 7 and 8 and replace with the following:

(5) require that the written notice of a proposed application of herbicide include information demonstrating that the proposed application of herbicide under a plan will not result in exceeding:

The committee amendment was read and was adopted by a viva voce vote.

Senator Brown offered the following committee amendment to the bill:

**Committee Amendment No. 2**

Amend **HB 3079**, House Engrossed Version, to read as follows:

(1) On page 2, line 11, after "." insert "The state plan shall apply throughout the state unless a governmental entity has adopted an approved local plan.".

(2) On page 3, line 18, strike "must adopt the state plan or" and substitute "may".

(3) On page 4, strike line 5 through line 7, and renumber the subsequent subsection appropriately.

The committee amendment was read and was adopted by a viva voce vote.

Senator Ratliff offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 3079**, adding an appropriately numbered SECTION to read as follows:

"SECTION \_\_\_\_\_. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Brown and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 3079 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3079** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 3079** was read third time and was passed by a viva voce vote.

### **HOUSE BILL 160 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 160**, Relating to the regulation of certain sales or solicitations made by children; providing a penalty.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **HB 160** (Senate Committee report) as follows:

(1) In SECTION 1 of the bill, in added Section 51.045, Subsection (a)(2)(A), Labor Code (Senate Committee Printing version, page 1, line 26), after "services" and before the semicolon, add ". in a setting other than a retail establishment".

(2) In SECTION 1 of the bill, in added Section 51.045(c)(4), Labor Code (Senate Committee Printing version, page 1, line 48) strike "(A) a day when the child is not legally required to attend school; and" and substitute "(A) no later than 7 p.m. on a day when the child is legally required to attend school; and".

(3) In SECTION 1 of the bill, in added Section 51.045(c)(4)(B), Labor Code (Senate Committee Printing version, page 1, line 50), after "7 p.m.", add "on all other days."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 160 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 160** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 160** was read third time and was passed by a viva voce vote.

### **HOUSE BILL 3623 ON SECOND READING**

On motion of Senator Ratliff and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3623**, Relating to the application of the sales tax to land surveying services.

The bill was read second time and was passed to third reading by a viva voce vote.

### HOUSE BILL 3623 ON THIRD READING

Senator Ratliff moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3623** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 3623** was read third time and was passed by a viva voce vote.

### HOUSE BILL 1984 ON SECOND READING

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1984**, Relating to the consolidation of emergency communication districts.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **HB 1984** by adding the following section, appropriately numbered, to read as follows:

SECTION \_\_\_\_\_. Sections 772.309(b), (c), and (d), Health and Safety Code, are amended to read as follows:

(b) The board shall submit a draft of the proposed budget to the governing bodies of the participating jurisdictions not later than the 45th day before the date the board adopts the budget. The participating jurisdictions shall review the proposed budget and submit any comments regarding the budget to the board.

(c) If the governing body of a county, municipality, or other participating jurisdiction does not approve or disapprove the budget before the 61st day after the date the body received the proposed budget for review, the budget is approved by operation of law.

(d) A revision of the budget must be approved in the same manner as the budget.

(e) [(e)] As soon as practicable after the end of each district fiscal year, the director shall prepare and present to the board and to each participating jurisdiction in writing a sworn statement of all money received by the district and how the money was used during the preceding fiscal year. The report must show in detail the operations of the district for the fiscal year covered by the report.

(f) [(f)] The board shall have an independent financial audit of the district performed annually.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Madla and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 1984 ON THIRD READING**

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1984** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 1984** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**(Senator Brown in Chair)**

**HOUSE BILL 3433 ON SECOND READING**

On motion of Senator Cain and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3433**, Relating to dismissal of certain traffic offenses occurring in a construction or maintenance work zone.

The bill was read second time.

Senator Cain offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 3433** as follows:

In SECTION 2, page 1, line 20 of the Senate Committee Report, between "applies" and "." add "except upon motion of the attorney representing the State."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Cain and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 3433 ON THIRD READING**

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3433** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 3433** was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 3657 ON SECOND READING**

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 3657**, Relating to the continuation, funding, and operation of certain workforce development programs.

The bill was read second time.

Senator Sibley offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 3657** in Sec. 481.152(b), Government, as amended by SECTION 1.02 of the bill, (page 3, line 17, committee printing) by inserting after the period "At least 20 percent shall be used for employers that relocate operations to this state."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Sibley and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 3657 ON THIRD READING**

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3657** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSHB 3657** was read third time and was passed by a viva voce vote.

**MESSAGE FROM THE HOUSE**

HOUSE CHAMBER

Austin, Texas

May 24, 1999

The Honorable President of the Senate

Senate Chamber

Austin, Texas

Mr. President:

I am directed by the House to inform the Senate that the House has taken the following action:

**THE HOUSE HAS PASSED THE FOLLOWING MEASURES:**

**HCR 296**, Instructing the enrolling clerk of the house to make technical corrections in **HB 1777**.

**SB 4**, Relating to public school finance, property tax relief, and public education. (Committee Substitute/Amended)

**SCR 83**, Recognizing "Austin Highlights" as a commemorative painting of the 76th Legislature.

Respectfully,

/s/Sharon Carter, Chief Clerk  
House of Representatives

**HOUSE BILL 937 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 937**, Relating to the operation of certain food programs administered by the Texas Department of Human Services.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 937 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 937** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 937** was read third time and was passed by a viva voce vote.

**HOUSE BILL 3549 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3549**, Relating to the administration and collection of ad valorem taxes and certain local standby fees.

The bill was read second time.

Senator Wentworth offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 3549** as follows:

In SECTION 22, Sec. 34.05(d), page 27, lines 3-4, between "subsection" and "and", strike "without imposing a recording or other fee for that filing".

The committee amendment was read and was adopted by a viva voce vote.

Senator Wentworth offered the following committee amendment to the bill:

**Committee Amendment No. 2**

(1) Amend **HB 3549**, Section 34.01(o), on page 19, line 24, by deleting the following:

". . . without a recording or other fee for that filing . . ."

The committee amendment was read and was adopted by a viva voce vote.

Senator Wentworth offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 3549** as follows:

(1) Strike SECTION 8 of the bill (page 3, lines 21-36, Committee Printing) and renumber subsequent SECTIONS accordingly.



(2) In SECTION 9 of the bill, proposed Section 33.04(b)(2), Tax Code (page 3, line 60, Committee Printing), strike "current appraisal" and substitute "most recent certified appraisal roll".

(3) In SECTION 16 of the bill, proposed Section 33.53(c), Tax Code (page 6, lines 47-51, Committee Printing), strike proposed Subdivision (2) and substitute the following:

"(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."

(4) In SECTION 17 of the bill, amended Section 34.01(b), Tax Code (page 7, line 8, Committee Printing), strike "under Subsection (d)".

(5) In SECTION 17 of the bill, amended Section 34.01, Tax Code (page 7, lines 21-24, Committee Printing), strike proposed Subsection (d) and redesignate proposed Subsection (e) as Subsection (d).

(6) In SECTION 17 of the bill, amended Section 34.01, Tax Code (page 7, lines 30-35, Committee Printing), strike proposed Subsection (f), and redesignate Subsections (g)-(u) as Subsections (e)-(s).

(7) In SECTION 17 of the bill, proposed Section 34.01(g), Tax Code (page 7, line 36, Committee Printing), strike "or (d)".

(8) In SECTION 17 of the bill, proposed Section 34.01(j), Tax Code (page 7, line 61, Committee Printing), strike "Subsection (i)" and substitute "Subsection (g)".

(9) In SECTION 17 of the bill, amended Section 34.01(e), Tax Code (page 8, line 61, Committee Printing), strike "Subsection (l)" and substitute "Subsection (j)".

(10) In SECTION 17 of the bill, amended Section 34.01(f), Tax Code (page 8, line 68, Committee Printing), strike "Subsection (q)" and substitute "Subsection (o)".

(11) In SECTION 26 of the bill, amended Section 34.21(b), Tax Code (page 13, line 9, Committee Printing), strike "34.01(l)" and substitute "34.01(j)".

(12) In SECTION 17 of the bill, proposed Section 34.01(s)(1), Tax Code (page 9, Committee Printing, at the end of line 10), add "delinquent".

(13) Strike SECTION 18 of the bill (page 9, lines 25-45, Committee Printing) and renumber subsequent SECTIONS accordingly.

(14) In SECTION 24 of the bill, proposed Section 34.06(c) (page 11, line 59, Committee Printing), strike "(3) costs described by Subsection (d)" and substitute "(3) costs described by Subsection (f)".

(15) Strike SECTION 29 of the bill (page 16, lines 11-51, Committee Printing) and substitute the following:

SECTION 29. 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.

(16) In SECTION 35 of the bill (page 18, lines 3 and 4, Committee Printing), strike "Chapter 914" and substitute "Chapters 914 and 1111".

The amendment was read and was adopted by a viva voce vote.

Senator Wentworth offered the following amendment to the bill:

## **Floor Amendment No. 2**

Amend **HB 3549** as follows:

(1) Add the following new SECTIONS to the bill, appropriately numbered:  
SECTION \_\_\_\_\_. Section 19(d), Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) The department may not refuse to issue a document of title, and may not suspend or revoke a document of title, unless:

(1) the application contains any false or fraudulent statement, the applicant has failed to furnish information required by the director, or the applicant is not lawfully entitled to the issuance of a document of title;

(2) the director has reasonable basis to believe that the manufactured home has been stolen or unlawfully converted, or the issuance of a document of title would constitute a fraud against the rightful owner or a lienholder;

(3) the director has reasonable basis to believe that the manufactured home is "salvaged" as defined in Section 8 of this Act and a salvage title has not been applied for;

(4) the required fee has not been paid;

(5) the state sales and use tax has not been paid in accordance with the provisions of Chapter 158, Tax Code, and its subsequent amendments, and Subsection (j) of this section; or

(6) a local tax lien was [has been] filed before September 1, 1999, and recorded pursuant to Section 32.015, [Property] Tax Code, as that section existed on the date the lien was filed, and that lien has not been extinguished.

SECTION \_\_\_\_ Section 32.03(b), Tax Code, is amended to read as follows:

(b) A bona fide purchaser for value or the holder of a lien recorded on the manufactured home document of title is not required to pay any taxes imposed in a tax year that begins before January 1, 1999, or[-] penalties[-] or interest on those taxes except for each year [those years] for which a valid tax lien was [has been] duly filed and recorded under Section 32.015, as that section existed on the date the lien was filed, [of this code] and each year [those years] for which the owner of the manufactured home had [has] constructive notice of the taxes under Section 32.015(e), as that section existed before September 1, 1999 [of this code]. The effect and priority of a tax lien that attaches to secure the payment of taxes imposed on a manufactured home in a tax year that begins on or after January 1, 1999, are those established by Sections 32.01 and 32.05. In this section, "manufactured home" has the meaning assigned by Section 32.015(b) [32.015(i) of this code].

SECTION \_\_\_\_ Section 623.093, Transportation Code, is amended by repealing Subsections (d) and (e), as added by Chapter 791, Acts of the 75th Legislature, Regular Session, 1997, and adding new Subsections (e) and (f) to read as follows:

(e) If the application is for a permit to transport a manufactured house from a location other than the location of the manufacturer or from the location of the retailer of the manufactured house pursuant to the original sale, exchange, or lease-purchase of the manufactured house to a consumer, the application for a permit must be accompanied by a certificate from the tax assessor-collector for each taxing unit in which the manufactured house is located that states that there are no unpaid ad valorem taxes on the manufactured house due that taxing unit. If the manufactured house is not listed on the most recent tax roll of each taxing unit in which the manufactured house is located, the application for the permit must be accompanied by:

(1) evidence satisfactory to the department showing that the manufactured house was moved into that taxing unit after January 1 of the current year; or

(2) a certificate from the appraisal district for the county in which the manufactured house is located that states that the owner of the manufactured house or another person has provided that appraisal district with information sufficient to list the manufactured house in the supplemental appraisal records of that appraisal district.

(f) In Subsection (e), "consumer," "manufacturer," and "retailer" have the meanings assigned by the Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes).

SECTION \_\_\_\_ Section 623.104, Transportation Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) A person commits an offense if the person violates this subchapter. An offense under this subsection is a Class C misdemeanor, except as provided by Subsection (d).

(d) If the offense involves the movement of a manufactured house over a highway, road, or street in this state without a permit issued by the department, the offense is a misdemeanor punishable by a fine of \$500. If the peace officer who arrested or issued a citation to the defendant was employed by a law enforcement agency of a municipality or a county, a fine imposed under this subsection and deposited in the treasury of the municipality or county may be appropriated only to that law enforcement agency.

SECTION \_\_\_\_ (a) The changes in law made by this Act to Section 623.093, Transportation Code, apply only to an application for a permit under that section that

is filed on or after September 1, 1999. An application for a permit under Section 623.093, Transportation Code, that was filed before September 1, 1999, is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(b) The changes in law made by this Act to Section 623.104, Transportation Code, apply only to an offense committed under that section on or after September 1, 1999. An offense under Section 623.104, Transportation Code, committed before September 1, 1999, is governed by the law in effect on the date the offense was committed, and the former law is continued in effect for that purpose. For purposes of this subsection, an offense was committed before September 1, 1999, if any element of the offense occurred before that date.

(2) Strike SECTION 4 of the bill (page 2, lines 40-52, Senate Committee Printing) and substitute the following:

SECTION 4. Section 32.015, Tax Code, is amended to read as follows:

Sec. 32.015. ~~[RECORDING] TAX LIEN ON MANUFACTURED HOME.~~ (a) ~~[The collector for a taxing unit may file notice of the unit's tax lien on a manufactured home with the department if the tax has not been paid by January 31 of the year following the year for which the tax is imposed. The notice must include:~~

~~[(1) the name and address of the owner of the manufactured home; and~~

~~[(2) the amount of tax owed, the tax year for which the tax was imposed, and the name of the taxing unit that imposed the tax; and~~

~~[(3) the complete identification number or serial number of the manufactured home, or the Department of Housing and Urban Development label number or state seal number.~~

~~[(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 prior calendar year must be filed with the department prior to September 1 of the following year. Any lien for which the notice is not filed by such date is extinguished and is not enforceable.~~

~~[(c) If the complete identification or serial number or the Department of Housing and Urban Development label number or state seal number of the home on the tax lien notice matches that of a title of record, the department shall record the tax lien on the title records of the manufactured home. Simultaneously with the recording of a tax lien, the department must mail a notice of the tax lien to any other lienholders of record.~~

~~[(d) The department shall record the tax lien under Subsection (c) even if the person listed as the owner on the department's title records is not the person who owned the manufactured home on the date that the tax was imposed. Recording of the tax lien does not invalidate a title document or a certificate of title for the manufactured home that was previously issued by the department.~~

~~[(e) For all manufactured homes sold, or to which ownership is transferred, after December 31, 1985, the recording of a tax lien under this section constitutes constructive notice of the existence of the tax lien to all purchasers of the manufactured home who purchase it after the date of recordation of the lien and before a tax certificate or paid tax receipt is filed pursuant to Subsection (g):~~

~~[(f) When the ownership of a manufactured home is transferred, the subsequent owner and the lienholder of the home is considered to have notice of the ad valorem taxes imposed on the home for the current tax year or for the previous tax year if the time for filing a notice of a tax lien under Subsection (b) has not expired.~~

~~[(g) On payment of the taxes, penalties, and interest for a year for which a valid tax lien filed before September 1, 1999, has been recorded on the title records of the department, the collector for the taxing unit shall issue a tax certificate showing no~~

taxes due or a tax paid receipt for such year to the person making payment. When the tax certificate showing no taxes due or tax paid receipt is filed with the department, the tax lien is extinguished and canceled and shall be removed from the title records of the manufactured home. The collector for a taxing unit may not refuse to issue a tax paid receipt to the person who offers to pay the taxes, penalties, and interest for a particular year or years, even though taxes may also be due for another year or other years.

~~(b) [(h) If a manufactured home for which a notice of a tax lien is timely filed does not have a title recorded on the records of the department, the tax lien is not extinguished and is enforceable.~~

~~[(†)]~~ In this section, "department[;]" [~~"label," "seal,"~~] and "manufactured home" have the meanings assigned by Section 3, Texas Manufactured Housing Standards Act (Article 5221f, Vernon's Texas Civil Statutes); however, the term "manufactured home" does not include a manufactured home that has been attached to real property and for which the document of title has been canceled under Section 19(1) of that Act.

(3) In SECTION 36(b) of the bill (page 18, line 8, Senate committee printing), strike "4,".

(4) Strike SECTION 37 of the bill (page 18, lines 10-13, senate committee printing).

(5) Renumber the sections of the bill.

The amendment was read and was adopted by a viva voce vote.

Senator Cain offered the following amendment to the bill:

### Floor Amendment No. 3

Amend **HB 3549** as follows:

(1) Add the following SECTIONS, appropriately numbered, and renumber the subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_. Subsection (h), Section 11.13, 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 \_\_\_. Subsections (a) and (j), Section 11.26, 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 \_\_\_\_\_. 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 \_\_\_\_\_. Subsection (d), Section 11.43, 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 \_\_\_\_. Subsection (k), Section 11.43, 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 \_\_\_\_. 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 \_\_\_\_. Subsection (a), Section 26.113, 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.

(2) In SECTION 36 of the bill, in Subsection (a) of the SECTION (Senate Committee Printing, page 18, lines 6 and 7), strike "Subsection (b)" and substitute "Subsections (b) and (c)".

(3) Between SECTIONS 36 and 37 of the bill (Senate Committee Printing, page 18, between lines 9 and 10), insert the following:

(c) Sections 11.13, 11.26, 11.42, 11.43, 26.112, and 26.113, Tax Code, as amended by 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.

The amendment was read and was adopted by a viva voce vote.

**(Senator Moncrief in Chair)**

Senator Brown offered the following amendment to the bill:

**Floor Amendment No. 4**

Amend **HB 3549** (Senate Committee Printing) by adding the following new Section 1 and renumbering subsequent sections.

SECTION 1. 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.

The amendment was read and was adopted by the following vote: Yeas 29, Nays 1.

Nays: Ogden.

Absent-excused: Luna.

Senator Harris offered the following amendment to the bill:

**Floor Amendment No. 5**

Amend **HB 3549** as follows:

(1) On page 2, line 36 of the committee printing, insert the following language after the word "conveyance":

, unless the homestead is identified as a separate tax parcel and is separately described in the conveyance or another instrument recorded in the real property records.



(2) On page 14, after line 55, add a new subsection (j) to read as follows:

(j) A quitclaim deed to an owner redeeming property under this section is not notice of unrecorded instruments and the grantee of a quitclaim deed and the grantee's successors and assigns may be bona fide purchasers in good faith for value under recording laws.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Wentworth and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

#### **RECORD OF VOTE**

Senator Harris asked to be recorded as voting "Nay" on the passage of the bill to third reading.

#### **HOUSE BILL 3549 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3549** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Harris.

Absent-excused: Luna.

**HB 3549** was read third time and was passed by a viva voce vote.

#### **RECORD OF VOTE**

Senator Harris asked to be recorded as voting "Nay" on the final passage of the bill.

#### **HOUSE BILL 617 ON SECOND READING**

Senator West asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**HB 617**, Relating to waiver applications by a public school campus or district.

There was objection.

Senator West then moved to suspend the regular order of business and take up **HB 617** for consideration at this time.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ratliff, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Ogden, Shapiro.

Absent-excused: Luna.

The bill was read second time.

Senator West offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 617** (Senate Committee Report) as follows:

In SECTION 1, page 1, lines 21 and 22 strike "and the signature of the chairperson of" and substitute with "from".

In SECTION 1, page 1, line 23 add "and" after "Section 11.251".

In SECTION 1, page 1, line 23 strike the words "evidencing review of the".

In SECTION 1, page 1, strike lines 24 through 32.

In SECTION 1, page 1, add the following new subsection:

(3) the signature of the chairperson of the appropriate committee evidencing review of the application by a majority of the members of the appropriate committee.

Renumber accordingly.

The amendment was read.

On motion of Senator West and by unanimous consent, Floor Amendment No. 1 was withdrawn.

The bill was passed to third reading by the following vote: Yeas 28, Nays 2.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ratliff, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Ogden, Shapiro.

Absent-excused: Luna.

**HOUSE BILL 617 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 617** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ratliff, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Ogden, Shapiro.

Absent-excused: Luna.

**HB 617** was read third time and was passed by a viva voce vote.

**RECORD OF VOTES**

Senators Ogden and Shapiro asked to be recorded as voting "Nay" on the final passage of the bill.

**HOUSE BILL 1291 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1291**, Relating to the single certification of a water or sewer utility in an area incorporated or annexed by a municipality.

The bill was read second time.

Senator Harris offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 1291** by adding SECTION \_\_\_ in the appropriate place as follows:

1. "SECTION \_\_\_ Amend Section 13.247(a), Water Code, to read as follows:

(a) If an area has been or is included within the boundaries of a municipality [city] as the result of annexation, incorporation, or otherwise, all retail public utilities certified or entitled to certification under this chapter to provide service or operate facilities in that area before the inclusion may continue and extend service in its area of public convenience and necessity within the annexed or incorporated area pursuant to the rights granted by its certificate and this chapter.

(b) A utility owned or operated by the municipality is not required to obtain a certificate of public convenience and necessity to provide retail water or sewer service in territory within its boundaries if:

(1) the territory or customers in the territory are not receiving service from the retail public utility that holds a certificate for the territory at the time the territory is first included in the municipality;

(2) such retail public utility has no facilities located within the territory at the time the territory is first included in the municipality; and

(3) such retail public utility has held the certificate of convenience and necessity which includes the territory for at least ten years.

(c) The municipality shall not be required to compensate the retail public utility for any property in the territory which has not received service from the retail public utility or for the loss of service area of the retail public utility. [Except as provided by Section 13.255 of this code, a municipally owned or operated utility may not provide retail water and sewer utility service within the area certificated to another retail public utility without first having obtained from the commission a certificate of public convenience and necessity that includes the areas to be served.]"

The amendment was read and was adopted by the following vote: Yeas 29, Nays 1.

Nays: Ogden.

Absent-excused: Luna

On motion of Senator Harris and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**(Senator Brown in Chair)**

**HOUSE BILL 1291 ON THIRD READING**

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1291** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 1291** was read third time and was passed by the following vote:  
Yeas 29, Nays 1.

Nays: Ogden.

Absent-excused: Luna.

### **HOUSE BILL 1444 ON SECOND READING**

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1444**, Relating to local public health services.

The bill was read second time.

Senator Moncrief offered the following committee amendment to the bill:

#### **Committee Amendment No. 1**

Amend **HB 1444**, as engrossed, by adding a new subsection (b) in Section 121.0065, to read as follows:

"(b) The grants authorized by subsection (a) of this subchapter shall be distributed equally between urban and rural areas of the state."

Renumber subsequent subsections.

The committee amendment was read and was adopted by a viva voce vote.

Senator Moncrief offered the following committee amendment to the bill:

#### **Committee Amendment No. 2**

Amend **HB 1444**, by adding an appropriately numbered SECTION to read as follows:

"SECTION \_\_\_\_\_. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

The committee amendment was read and was adopted by a viva voce vote.

Senator Nixon offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **HB 1444** as follows:

(1) On page 8, line 23, insert the following after Section 7 of the bill and renumber the subsequent sections appropriately:

SECTION 8. Chapter 121, Health and Safety Code, is amended by adding Subchapter G to read as follows:

#### SUBCHAPTER G. CERTIFICATION OF FOOD MANAGERS BY PUBLIC HEALTH AUTHORITIES.

Sec. 121.101. DEFINITIONS. In this subchapter:

(1) "Board" means the Texas Board of Health.

(2) "Department" means the Texas Department of Health.

(3) "Food establishment" means a fixed or mobile location retail establishment where food is prepared on-site for sale to the public.

(4) "Food manager" means the individual who conducts, manages, or operates a food establishment.

Sec. 121.102. CERTIFICATION. (a) The board, a local county or municipal health department or public health district may require a person permitted by that entity who owns, conducts, maintains, manages, or operates a food establishment in the entity's jurisdiction to employ a food manager who holds a food manager certificate issued under this subchapter.

(b) A food establishment that handles only prepackaged non-potentially hazardous food is exempt from the requirements of this section. The board may adopt rules to exempt other establishments under this subsection as is appropriate.

Sec. 121.103. QUALIFICATIONS FOR CERTIFICATION. (a) A person may receive certification and re-certification as a food manager by passage of a state-accredited examination.

(b) The board by rule shall prescribe the requirements for issuance and renewal of a certificate under this subchapter. The board shall adopt criteria to approve examinations that are developed by federal, state, or local government agencies, national testing organizations or trade associations of permittees. Examinations approved by the department before the effective date of this legislation shall be considered to meet the examination criteria.

(c) Food manager certification and re-certification obtained under this section shall be accepted as having met the training and testing requirements under Section 438.046(b) of this Code.

(d) The board by rule shall establish an implementation schedule for certification under this subchapter. Testing sites and frequency of testing shall be established so as to avoid inconvenience or hardship to food managers. In administering this subchapter the board shall consider the impact of the distance traveled and the time expended by a food manager in obtaining certification. The board shall give particular consideration to mitigating the impact of this subchapter on food managers in rural areas.

Sec. 121.104. POWERS AND DUTIES. (a) The board may adopt a fee not to exceed thirty dollars for a three year certification under this subchapter and such fee shall not exceed the amount necessary to administer this subchapter.

(b) The board may adopt rules for the denial, suspension, and revocation of a food manager certificate issued under this subchapter.

(c) The board by rule may prescribe standards for examination sites, fees for site costs and site audits for administration of this subchapter.

The amendment was read and was adopted by a viva voce vote.

Senator Brown offered the following amendment to the bill:

### **Floor Amendment No. 2**

Amend **HB 1444** by adding the following SECTION, appropriately numbered, and renumbering subsequent SECTIONS of the bill appropriately:

SECTION \_\_\_\_ Chapter 437, Health and Safety Code, is amended by adding Section 437.0075 to read as follows:

Sec. 437.0075. FOOD MANAGERS IN CERTAIN POPULOUS COUNTIES. (a) A county with a population of at least 2.8 million may require a trained food manager to be on duty during the operating hours of a food establishment.

(b) The training required of food managers can be no more extensive than that specified under Subchapter D, Chapter 438.

(c) A food establishment that handles only prepackaged food and does not prepare or package food may not be required to have a certified food manager under this section.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Moncrief and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

#### **HOUSE BILL 1444 ON THIRD READING**

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1444** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 1444** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

#### **HOUSE BILL 1687 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1687**, Relating to a state program of loan guarantees to promote the film industry in this state; providing a penalty.

The bill was read second time and was passed to third reading by a viva voce vote.

#### **HOUSE BILL 1687 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1687** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 1687** was read third time and was passed by a viva voce vote.

#### **HOUSE BILL 1907 ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1907**, Relating to the limited law enforcement authority of certain agents or officers of the government of the United States.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 1907 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1907** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

Question—Shall **HB 1907** be read third time?

**COMMITTEE SUBSTITUTE  
HOUSE BILL 3041 ON SECOND READING**

On motion of Senator Sibley and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 3041**, Relating to prompt payment of insurance claims.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 3041** as follows:

(1) In Section 2, Article 21.55, Subsection (e), Insurance Code, in SECTION 2 of the bill (page 2, line 12), between "day" and "after" insert ", or the 20th day if the insurer is an eligible surplus lines insurer.".

(2) In Section 6, Article 21.55, Insurance Code, in SECTION 4 of the bill (page 2, line 40), after the word "insurer" strike "may not deny liability for the claim and is" and substitute the words "shall be".

(3) In Section 2, Article 21.55, Subsection (e), Insurance Code, in SECTION 2 of the bill, (page 2, line 12), strike "third" and substitute "fifth".

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Sibley and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 3041 ON THIRD READING**

Senator Sibley moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3041** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSHB 3041** was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 3333 ON SECOND READING**

On motion of Senator Cain and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 3333**, Relating to certain duties of local workforce development boards in connection with the provision of child care.

The bill was read second time.

Senator Cain offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 3333** as follows:

(1) In SECTION 1 of the bill, in the last sentence of proposed Section 2308.315, Government Code (committee printing, page 1, line 23), strike "may" and substitute "shall".

(2) In SECTION 1 of the bill, in the heading for proposed Section 2308.316, Government Code (committee printing, page 1, line 26), strike "TODDLER" and substitute "EARLY CHILDHOOD".

(3) In SECTION 1 of the bill, in the first sentence of proposed Section 2308.316, Government Code (committee printing, page 1, line 27), between "funds" and "to", insert "dedicated to quality improvement activities".

(4) In SECTION 1 of the bill, after the last sentence of proposed Section 2308.316, Government Code (committee printing, page 1, line 34), add "This section may not be interpreted to limit parental choice."

The amendment was read and was adopted by a viva voce vote.

Senator Carona offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSHB 3333** as follows:

(1) In SECTION 1 of the bill, in the heading for proposed Section 2308.316, Government Code (committee printing page 1, line 25), strike "SYSTEM" and substitute "PROCESS".

(2) In SECTION 1 of the bill, in proposed Section 2308.316, Government Code (committee printing page 1, lines 28 and 29), strike "competitive procurement system for the provision of quality child care" and substitute "competitive procurement process for a system for quality child care".

(3) In SECTION 1 of the bill, in the second sentence of proposed Section 2308.316, Government Code (committee printing page 1, line 33), strike "emphasis" and substitute "consideration".

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Cain and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.



**COMMITTEE SUBSTITUTE  
HOUSE BILL 3333 ON THIRD READING**

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 3333** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSHB 3333** was read third time and was passed by a viva voce vote.

**VOTE RECONSIDERED ON  
COMMITTEE SUBSTITUTE HOUSE BILL 3657**

On motion of Senator Sibley and by unanimous consent, the vote by which **CSHB 3657** was finally passed was reconsidered.

Question—Shall **CSHB 3657** be finally passed?

Senator Harris offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **CSHB 3657** in SECTION 1.05 of the bill, in amended Section 481.155, Government Code (page 6, between lines 3 and 4, senate committee report printing), by inserting the following new subsection:

(i) Notwithstanding Subsection (d) of this section or any other provision of this subchapter, a grant awarded under this section for a job training project is exempt from the requirement that a job under the project pay at least 100 percent of the county average weekly wage for the county in which the job or project is located if the grant application was filed before September 1, 1999, and the application is for training for 1,000 or more technology-related jobs, the training is to begin not later than June 1, 2000, and all training is to be completed not later than August 31, 2001. This subsection expires September 1, 2001.

By unanimous consent, the amendment was read and was adopted by a viva voce vote.

On motion of Senator Sibley and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**CSHB 3657** as again amended was again finally passed by a viva voce vote.

**(Senator Armbrister in Chair)**

**HOUSE JOINT RESOLUTION 62 ON SECOND READING**

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HJR 62**, Proposing a constitutional amendment to eliminate duplicative, executed, obsolete, archaic, and ineffective constitutional provisions.

The resolution was read second time.

Senator Shapiro offered the following amendment to the resolution:

**Floor Amendment No. 1**

Amend **HJR 62** in SECTION 18 (on page 53, line 17, House Engrossment) between "students" and the period "." insert "who have been admitted to attend an institution of higher education within the State of Texas, public or private, which is recognized or accredited under terms and conditions prescribed by the Legislature".

The amendment was read and was adopted by a viva voce vote.

**RECORD OF VOTE**

Senator Nixon asked to be recorded as voting "Nay" on the adoption of Floor Amendment No. 1.

Senator Shapiro offered the following amendment to the resolution:

**Floor Amendment No. 2**

Amend **HJR 62**, in SECTION 49 (page 84, line 27, House Engrossment), by striking "the [When a] Railroad Commission [is created by law it]" and substituting "When a Railroad Commission is created by law it".

The amendment was read and was adopted by a viva voce vote.

**RECORD OF VOTE**

Senator Nixon asked to be recorded as voting "Nay" on the adoption of Floor Amendment No. 2.

Senator Shapiro offered the following amendment to the resolution:

**Floor Amendment No. 3**

Amend **HJR 62** as follows:

- (1) On page 8, line 25, after "creating", delete "a fund to be known as".
- (2) On page 8, line 26, after "Fund", insert: ", Veterans' Housing Assistance Fund, and Veterans' Housing Assistance Fund II."
- (3) Strike page 9, lines 22 through 25. Renumber remaining subsections accordingly.

The amendment was read and was adopted by a viva voce vote.

**RECORD OF VOTE**

Senator Nixon asked to be recorded as voting "Nay" on the adoption of Floor Amendment No. 3.

On motion of Senator Shapiro and by unanimous consent, the caption was amended to conform to the body of the resolution as amended.

The resolution as amended was passed to third reading by a viva voce vote.

**RECORD OF VOTE**

Senator Nixon asked to be recorded as voting "Nay" on the passage of the resolution to third reading.

**HOUSE JOINT RESOLUTION 62 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HJR 62** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 29, Nays 1.

Nays: Nixon.

Absent-excused: Luna.

**HJR 62** was read third time and was passed by the following vote: Yeas 29, Nays 1. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
HOUSE BILL 577 ON SECOND READING**

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 577**, 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.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 577 ON THIRD READING**

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 577** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSHB 577** was read third time and was passed by a viva voce vote.

**HOUSE BILL 1016 ON SECOND READING**

On motion of Senator Ellis and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1016**, Relating to the manner in which state agency reports are made available to members of the legislature.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 1016 ON THIRD READING**

Senator Ellis moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1016** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 1016** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

### **HOUSE BILL 3431 ON SECOND READING**

On motion of Senator Fraser and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3431**, Relating to the Council on Workforce and Economic Competitiveness.

The bill was read second time.

Senator Fraser offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend SECTION 5 of **HB 3431** on page 2, as follows:

- (1) On line 46, strike "analyzing work development"
- (2) On line 47, strike "programs that focus"

The amendment was read and was adopted by a viva voce vote.

Senator Fraser offered the following amendment to the bill:

#### **Floor Amendment No. 2**

Amend **HB 3431**, adding an appropriately numbered SECTION to read as follows:

SECTION \_\_. Section 2308.303(a)(9), Government Code, is amended to read as follows:

(9) promote cooperation and coordination among public organizations, community organizations, charitable and religious organizations, and private businesses providing workforce development, in a manner consistent with the nondiscrimination principles and safeguards stated in 42 U.S.C. Section 604a.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Fraser and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 3431 ON THIRD READING**

Senator Fraser moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3431** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 3431** was read third time and was passed by a viva voce vote.

### **HOUSE BILL 323 ON SECOND READING**

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 323**, Relating to the jurisdiction of municipal courts.

The bill was read second time and was passed to third reading by a viva voce vote.

### HOUSE BILL 323 ON THIRD READING

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 323** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 323** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

### HOUSE BILL 662 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 662**, Relating to the assessment of administrative fees for certain transactions relating to the collection of court costs.

The bill was read second time.

Senator Wentworth offered the following committee amendment to the bill:

#### Committee Amendment No. 1

Amend **HB 662** in SECTION 1 of the bill, in amended Article 102.072, Code of Criminal Procedure (house engrossment page 1, line 12), after the second sentence, by adding "This article does not apply to a transaction relating to the collection of child support.".

The committee amendment was read and was adopted by a viva voce vote.

Senator Wentworth offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **HB 662** by adding a new section to the bill, appropriately numbered, to read as follows, and renumbering subsequent sections of the bill accordingly:

SECTION \_\_\_. (a) Article 102.014(c), Code of Criminal Procedure, is amended to read as follows:

(c) A person convicted of an offense under Subtitle C, Title 7, Transportation Code, when the offense occurs within a school crossing zone as defined by Section 541.302 of that code, shall pay as court costs \$25 in addition to other taxable court costs. A person convicted of an offense under Section 545.066, Transportation Code, shall pay as court costs \$25 in addition to other taxable court costs. The additional court costs under this subsection shall be collected in the same manner that other fines and taxable court costs in the case are collected [~~and shall be assessed only in a municipality with a population of 400,000 or more~~].

(b) This section takes effect September 1, 1999. The change in law made by this section applies only to an offense committed on or after September 1, 1999. An offense committed before September 1, 1999, 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 September 1, 1999, if any element of the offense was committed before that date.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Wentworth and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

#### **HOUSE BILL 662 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 662** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 662** was read third time and was passed by a viva voce vote.

#### **HOUSE BILL 1494 ON SECOND READING**

On motion of Senator Nixon and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1494**, Relating to limited rights to purchase certain permanent school fund minerals other than oil and gas in Henderson County.

The bill was read second time and was passed to third reading by a viva voce vote.

#### **HOUSE BILL 1494 ON THIRD READING**

Senator Nixon moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1494** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 1494** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

#### **HOUSE BILL 1869 ON SECOND READING**

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1869**, Relating to the annexation of territory to a public junior college district.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 1869 ON THIRD READING**

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1869** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 1869** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2510 ON SECOND READING**

On motion of Senator Shapleigh and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 2510**, Relating to the administration and operation of the workers' compensation program of this state.

The bill was read second time.

Senator Bivins offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **CSHB 2510** by adding the following new SECTION and renumbering the remaining SECTIONS accordingly:

SECTION 21. Subchapter D, Chapter 201, Labor Code, is amended by adding Section 201.048 to read as follows:

Sec. 201.048. SERVICES PERFORMED IN SEASONAL PLAY OR MUSICAL PRODUCTION. (a) In this section, "seasonal" means a period consisting of not more than 17 consecutive weeks in a calendar year that recurs annually at approximately the same time and during the same months each calendar year.

(b) Services performed for a seasonal play or musical production, a principal purpose of which is education or historical preservation regarding the state or a region of the state, constitute employment for purposes of this subtitle. Benefits are payable to an individual based on seasonal services performed by the individual for the seasonal play or musical production only for the weeks of unemployment that occur, or the greater part of which occur, during the seasonal work period.

(c) The commission by rule shall determine that dates of a seasonal period for purposes of this section.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Shapleigh and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2510 ON THIRD READING**

Senator Shapleigh moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2510** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSHB 2510** was read third time and was passed by a viva voce vote.

### **HOUSE BILL 2394 ON SECOND READING**

On motion of Senator Nixon and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2394**, Relating to the regulation of the practice of optometry.

The bill was read second time.

Senator Nixon offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **HB 2394**, Sec. 3.085(2) as follows:

In Sec. 3.085(2) of the bill (page 2, line 10) strike "substantially" and after equivalent add "or superior".

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Nixon and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 2394 ON THIRD READING**

Senator Nixon moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2394** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 2394** was read third time and was passed by a viva voce vote.

### **HOUSE BILL 2187 ON SECOND READING**

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2187**, Relating to required counseling for a person placed on community supervision following conviction of an offense involving family violence.

The bill was read second time and was passed to third reading by a viva voce vote.

### **HOUSE BILL 2187 ON THIRD READING**

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2187** be placed on its third reading and final passage.



The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 2187** was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2787 ON SECOND READING**

On motion of Senator Jackson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 2787**, Relating to the consideration of the location of a bidder's principal place of business in the award of contracts by certain local governments.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 2787 ON THIRD READING**

Senator Jackson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 2787** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSHB 2787** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

**(Senator Brown in Chair)**

**HOUSE BILL 424 ON SECOND READING**

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 424**, Relating to the distribution of money to certain counties for the payment of extraordinary costs of prosecution.

The bill was read second time.

Senator Armbrister offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 424** as follows:

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

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

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator Armbrister and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 424 ON THIRD READING**

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 424** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 424** was read third time and was passed by a viva voce vote.

### **HOUSE BILL 3573 ON SECOND READING**

On motion of Senator Bernsen and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3573**, Relating to extracurricular activities sponsored or sanctioned by a school district or the University Interscholastic League.

The bill was read second time.

Senator Bernsen offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **HB 3573** as follows:

(1) Strike SECTIONS 5 and 6 of the bill (Senate Committee Report, page 1, line 64 through page 2, line 23).

(2) Renumber SECTIONS 7 and 8 of the bill as SECTIONS 5 and 6.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Bernsen and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 3573 ON THIRD READING**

Senator Bernsen moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3573** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 3573** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

### **COMMITTEE SUBSTITUTE HOUSE BILL 1014 ON SECOND READING**

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**CSHB 1014**, Relating to state and municipal hotel occupancy tax revenue.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

**Floor Amendment No. 1**

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

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Lucio and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE  
HOUSE BILL 1014 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **CSHB 1014** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**CSHB 1014** was read third time and was passed by a viva voce vote.

**HOUSE BILL 3624 ON SECOND READING**

On motion of Senator Ogden and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3624**, Relating to the persons for whom local governments may pay tort claims.

The bill was read second time and was passed to third reading by a viva voce vote.

**HOUSE BILL 3624 ON THIRD READING**

Senator Ogden moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3624** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 3624** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

(President in Chair)

## HOUSE BILL 1052 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1052**, Relating to creating a real estate broker's and appraiser's lien on commercial real estate; providing a penalty.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

### Floor Amendment No. 1

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

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

CHAPTER 62. BROKER'S AND APPRAISER'S  
LIEN ON COMMERCIAL REAL ESTATE  
SUBCHAPTER A. GENERAL PROVISIONS

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

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

(b) This chapter does not apply to:

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

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

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

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

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

Sec. 62.003. DEFINITIONS. In this chapter:

(1) "Broker" means a person who:

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

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

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

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

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

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

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

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

(E) real estate that:

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

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

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

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

(A) entitles a broker to a commission;

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

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

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

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

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

Sec. 62.004. PAYABLE COMMISSION AND EARNED COMMISSION. (a) A commission is payable at the time provided in the commission agreement. If payment of the commission is conditioned on the occurrence of an event and that event does not occur, the person obligated to pay the commission is not required to pay the commission.

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

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

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

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

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

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

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

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

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

[Sections 62.006-62.020 reserved for expansion]

#### SUBCHAPTER B. BROKER'S LIEN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) a court order discharging the lien;

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

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

(d) A person who assumes an owner's or tenant's commercial real estate interest is bound by a commission agreement included in a lease agreement unless an escrow account is established under Subchapter F or a bond is provided under Subchapter G.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[Sections 62.032-62.040 reserved for expansion]

#### SUBCHAPTER C. TIME FOR FILING NOTICE OF LIEN

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

(1) after the commission is earned; and

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

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

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

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

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

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

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

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

[Sections 62.042-62.060 reserved for expansion]

#### SUBCHAPTER D. ENFORCEMENT OF LIEN

Sec. 62.061. SUIT TO FORECLOSE LIEN. (a) A broker may not bring a suit to foreclose a lien under this chapter unless the commission is earned and payable. A broker may bring a suit to foreclose a lien in any district court for the county in which the commercial real estate is located by filing a sworn complaint stating that the notice of lien has been recorded.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) A broker claiming a lien for a commission that is payable must bring a suit to foreclose the lien not later than the 30th day after the date the broker receives a written demand to bring a suit to foreclose the lien from the owner of the commercial real estate interest on which the lien is claimed.

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

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

[Sections 62.064-62.080 reserved for expansion]

#### SUBCHAPTER E. RELEASE OF LIEN

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

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

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

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

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

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

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

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

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

[Sections 62.082-62.100 reserved for expansion]

#### SUBCHAPTER F. ESCROW OF DISPUTED AMOUNTS

Sec. 62.101. ESCROW ACCOUNT. If a claim for a lien under a recorded notice of lien is not paid or assumed at the closing of a sale, lease, or mortgage of the commercial real estate interest subject to the lien and would prevent the closing of the transaction or conveyance or if a claim for a lien under a recorded notice of lien does

not survive the closing, any person named in the notice of lien as obligated to pay the commission shall, on the date of the closing:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[Sections 62.107-62.120 reserved for expansion]

#### SUBCHAPTER G. BOND TO INDEMNIFY AGAINST LIEN

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

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

Sec. 62.122. BOND REQUIREMENTS. The bond must:

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

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

(3) be in an amount that is double the amount of the lien referred to in the bond as of the date of execution of the bond by the surety, unless the total amount

claimed in the lien exceeds \$40,000, in which case the bond must be in an amount that is 1-1/2 times the amount of the lien;

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

(5) be executed by:

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

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

surety;

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

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

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

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

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

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

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

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

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

[Sections 62.126-62.140 reserved for expansion]

#### SUBCHAPTER H. REMEDIES

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

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

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

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

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

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

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

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

(2) the broker failed to:

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

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

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

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

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

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

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

(e) This section does not prevent:

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

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

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

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

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

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

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

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Wentworth and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 1052** as amended was passed to third reading by a viva voce vote.

### RECORD OF VOTES

Senator Lindsay asked to be recorded as voting "Nay" on the passage of the bill to third reading.

Senator Ratliff asked to be recorded as "Present-not voting" on the passage of the bill to third reading.

**HOUSE BILL 1052 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1052** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1, Present-not voting 1.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lucio, Madla, Moncrief, Nelson, Nixon, Ogden, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Lindsay.

Present-not voting: Ratliff.

Absent-excused: Luna.

**HB 1052** was read third time and was passed by a viva voce vote.

**RECORD OF VOTES**

Senator Lindsay asked to be recorded as voting "Nay" on the final passage of the bill.

Senator Ratliff asked to be recorded as "Present-not voting" on the final passage of the bill.

**HOUSE BILL 3517 ON SECOND READING**

On motion of Senator Harris and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3517**, Relating to the detention, adjudication, and disposition of certain persons within the juvenile justice system.

The bill was read second time.

Senator Brown offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 3517** on page 11, line 15 after the letter "(A)" and before the word "order" add the following:

"provided that the child meets the commitment criteria under Subtitle C or D Title 7 of the Health and Safety Code."

Amend **HB 3517** on page 15, line 23 after the letter "(A)" and before the word "order" add the following:

"provided that the child meets the commitment criteria under Subtitle C or D Title 7 of the Health and Safety Code."

The amendment was read and was adopted by a viva voce vote.

Senator Armbrister offered the following amendment to the bill:

### Floor Amendment No. 2

Amend **HB 3517** (Senate Committee Report) by inserting a new SECTION 35 (page 24, between lines 6 and 7) to read as follows and renumbering subsequent SECTIONS appropriately:

SECTION 35. Sections 141.086(g), (h), (i), (j), and (k), Human Resources Code, are amended to read as follows:

(g) For a facility constructed under this section, ~~[the following amounts may be appropriated:~~

~~[(1) not more than 50 percent of the operating costs of the facility during the 1997 fiscal year; and~~

~~[(2) not more than 25 percent of the operating costs of the facility may be reimbursed by the commission [during each of the 1998 and 1999 fiscal years].~~

(h) It is the intent of the legislature to appropriate the full amount of money authorized under Subsection (g)~~[(2)].~~

~~(i) [On and after September 1, 1999, a facility constructed under this section must be operated entirely by the county using the facility.~~

~~[(j)]~~ The commission shall conduct an annual audit of the operating costs for a fiscal year of a facility constructed under this section for each fiscal year for which funds are appropriated unless the county in which the facility is located has conducted an annual audit [through fiscal year 1999]. The commission shall submit a report on the results of its or the county's [the] audit to the Legislative Budget Board and the governor not later than the 60th day after the last day of the fiscal year covered by the audit.

~~(j) [(k)]~~ In this section, "operating costs" means the operating costs of a facility at an 80-percent occupancy rate.

The amendment was read and was adopted by a viva voce vote.

Senator Harris offered the following amendment to the bill:

### Floor Amendment No. 3

Amend **HB 3517** as follows:

(1) On page 11, line 35, insert the following after "placement" and before the period: ", subject to an express appropriation of funds for the purpose"

(2) On page 15, line 42, insert the following after "placement" and before the period: ", subject to an express appropriation of funds for the purpose"

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Harris and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

### HOUSE BILL 3517 ON THIRD READING

Senator Harris moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3517** be placed on its third reading and final passage.



The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 3517** was read third time and was passed by a viva voce vote.

### HOUSE BILL 1123 ON SECOND READING

On motion of Senator Cain and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 1123**, Relating to the salaries of certain statutory county court judges.

The bill was read second time.

Senator Duncan offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **HB 1123** by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS appropriately:

SECTION \_\_\_\_\_. 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 \_\_\_\_\_. 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 \_\_\_\_\_. 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 \_\_\_\_\_. 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 \_\_\_\_\_. 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.

The amendment was read and was adopted by a viva voce vote.

Senator Wentworth offered the following amendment to the bill:

### **Floor Amendment No. 2**

Amend **HB 1123** (Senate Committee Printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS appropriately:

SECTION \_\_\_\_\_. Section 21.009(2), Government Code, is amended to read as follows:

(2) "Statutory county court" means a county court created by the legislature under Article V, Section 1, of the Texas Constitution, including county courts at law, county criminal courts, county criminal courts of appeals, and county civil courts at law, but does not include statutory probate courts as defined by Section 3, Texas Probate Code~~[, other than a county court at law and probate court in Brazoria County]~~.

SECTION \_\_\_\_\_. Section 25.0003, Government Code, is amended by adding Subsection (f) to read as follows:

(f) A statutory county court does not have the jurisdiction of a statutory probate court granted statutory probate courts by the Probate Code.

SECTION \_\_\_. Section 25.0021, Government Code, is amended to read as follows:

Sec. 25.0021. JURISDICTION. (a) If a provision of this subchapter conflicts with a specific provision for a particular court or county, the specific provision controls except that this subchapter controls over a specific provision for a particular court or county if the specific provision attempts to create jurisdiction in a statutory probate court other than jurisdiction over probate, guardianship, mental health, or eminent domain proceedings.

(b) A statutory probate court as that term is defined in Section 3(ii), Texas Probate Code, has the general jurisdiction of a probate court as provided by the Texas Probate Code.

SECTION \_\_\_\_\_. Section 25.0024(a), Government Code, is amended to read as follows:

(a) A judge of a statutory probate court shall ~~[in a county with a population of one million or more may]~~ hire with the approval of the commissioners court through the county budget process a court coordinator, an administrative assistant, and an auditor for the court.

SECTION \_\_\_\_\_. Section 25.1802(a), Government Code, is amended to read as follows:

(a) In addition to the jurisdiction provided by Section 25.0003 and other law, and except as limited by Subsection (d), a county court at law in Nueces County has:

(1) the jurisdiction provided by the constitution and by general law for district courts;

~~(2) [the general jurisdiction provided by Section 25.0021 for a statutory probate court and the jurisdiction and authority of a probate court or a statutory probate court under Sections 4, 5, 5A, and 5B, Texas Probate Code;~~

~~(3) concurrent jurisdiction with the district court in disputes ancillary to probate, eminent domain, condemnation, or landlord and tenant matters relating to the adjudication and determination of land titles and trusts, whether testamentary, inter vivos, constructive, resulting, or any other class or type of trust, regardless of the amount in controversy or the remedy sought;~~

~~(4) concurrent jurisdiction with the district court over civil forfeitures, including surety bond forfeitures without minimum or maximum limitation as to the amount in controversy or remedy sought;~~

~~(5) jurisdiction in mental health matters, original or appellate, provided by law for constitutional county courts, statutory county courts, [statutory probate courts,] or district courts with mental health jurisdiction, including proceedings under:~~

~~(A) Subtitle C, Title 7, Health and Safety Code;~~

~~(B) Chapter 462, Health and Safety Code; and~~

~~(C) Subtitle D, Title 7, Health and Safety Code;~~

~~(6) jurisdiction over the collection and management of estates of minors, mentally disabled persons, and deceased persons;~~

~~(7) concurrent jurisdiction with the district court in all actions by or against a personal representative, in all actions involving an inter vivos trust, in all actions involving a charitable trust, and in all actions involving a testamentary trust, whether the matter is appertaining to or incident to an estate;~~

~~(8) the pendent and ancillary jurisdiction necessary to promote judicial efficiency and economy;] and~~

~~(9) jurisdiction in all cases assigned, transferred, or heard under Sections 74.054, 74.059, and 74.094, Government Code.~~

SECTION \_\_\_\_\_. Chapter 25, Government Code, is amended by adding Subchapter E to read as follows:

#### SUBCHAPTER E. MULTICOUNTY STATUTORY PROBATE COURTS

Sec. 25.2651. APPLICATION OF SUBCHAPTER. (a) This subchapter applies only to statutory probate courts composed of more than one county.

(b) Except for Sections 25.0009, 25.0010(b), 25.0011, 25.00264(b), and 25.00265, Subchapters A and B apply to a statutory probate court composed of more than one county.

Sec. 25.2652. JUDGE. (a) The judge is elected by the qualified voters of the counties at the election at which other statutory probate court judges are elected.

(b) The judge must be:

(1) at least 25 years of age;

(2) a resident of one of the counties; and

(3) a licensed attorney in this state who has practiced law or served as a judge of a court in this state, or both combined, for the four years preceding election or appointment.

(c) The judge is entitled to be paid an annual salary set by a vote of a majority of the total number of the county judges and commissioners of the commissioners courts of the counties. The salary shall be apportioned among the counties according to the ratio a county's population bears to the total population of the counties composing the court.

Sec. 25.2653. VACANCY. (a) A vacancy in the office of judge is filled by a joint appointment by the commissioners courts of the counties composing the court. An appointment must be approved by a vote of a majority of the total number of the county judges and commissioners of the commissioners courts of the counties.

(b) An appointee holds office until the next general election and until the successor is elected and has qualified.

(c) This section applies to a vacancy existing on creation of the office of judge.

Sec. 25.2654. PERSONNEL. (a) The county clerk of a particular county serves as clerk in that county.

(b) The prosecuting attorney representing the state in a statutory probate court in a particular county serves as prosecutor in that county.

(c) The sheriff and the other court officials in a county shall serve in the manner required by law for their offices and are entitled to the compensation, fees, and allowances prescribed by law for their offices.

Sec. 25.2655. SEAL. The seal is the same as that provided by law for a statutory probate court except that the seal must contain the name of the court as designated by statute.

Sec. 25.2656. GENERAL LAW. Unless this subchapter contains a conflicting provision, the general law relating to statutory probate courts applies.

SECTION \_\_\_\_\_. Section 25.00266, Government Code, and Section 25.0032, Government Code, as added by Chapter 394, Acts of the 72nd Legislature, Regular Session, 1991, are repealed.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Cain and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 1123** as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 1123 ON THIRD READING**

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1123** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 1123** was read third time and was passed by a viva voce vote.

**GUESTS PRESENTED**

Senator Barrientos was recognized and introduced to the Senate a group of seventh-grade students from Saint Austin's School in Austin, accompanied by their teacher, Mr. Wiggins.

The Senate welcomed its guests.

**HOUSE BILL 2148 ON SECOND READING**

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2148**, Relating to certain federally funded long-term care Medicaid programs.

The bill was read second time.

Senator Moncrief offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2148**, adding an appropriately numbered SECTION to read as follows:

"SECTION 6. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Moncrief and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 2148 ON THIRD READING**

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2148** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 2148** was read third time and was passed by a viva voce vote.

**HOUSE BILL 3209 ON SECOND READING**

On motion of Senator West and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3209**, Relating to the purposes for which money received by crime stoppers organizations may be used.

The bill was read second time.

Senator West offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 3209**, in SECTION 1 of the bill, amending Section 414.010, Government Code, between "apprehension" and "adjudication" by inserting the word "and" and by striking ", and confinement" on page 2, line 6, engrossed version and inserting "." in lieu thereof.

The committee amendment was read and was adopted by a viva voce vote.

On motion of Senator West and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

**HOUSE BILL 3209 ON THIRD READING**

Senator West moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3209** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 3209** was read third time and was passed by a viva voce vote.

**VOTES RECONSIDERED ON  
HOUSE BILL 1123**

On motion of Senator Cain and by unanimous consent, the vote by which **HB 1123** was finally passed was reconsidered.

Question—Shall **HB 1123** be finally passed?

On motion of Senator Cain and by unanimous consent, the vote by which the Constitutional Three-day Rule was suspended for **HB 1123** was reconsidered.

Question—Shall the Constitutional Three-day Rule be suspended?

On motion of Senator Cain and by unanimous consent, the vote by which **HB 1123** was passed to third reading was reconsidered.

Question—Shall the bill be passed to third reading?

On motion of Senator Cain and by unanimous consent, the vote by which Floor Amendment No. 2 to **HB 1123** was adopted was reconsidered.

Question—Shall Floor Amendment No. 2 be adopted?

On motion on Senator Wentworth and by unanimous consent, Floor Amendment No. 2 was withdrawn.

Senator Wentworth offered the following amendment to the bill:

**Floor Amendment No. 3**

Amend **HB 1123** (Senate committee printing) by adding the following appropriately numbered SECTIONS to the bill and renumbering the remaining SECTIONS of the bill accordingly:

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

Sec. 51.703. 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 \_\_\_\_\_. The change in law made by Section 51.703, 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 \_\_\_\_\_. Section 21.009(2), Government Code, is amended to read as follows:

(2) "Statutory county court" means a county court created by the legislature under Article V, Section 1, of the Texas Constitution, including county courts at law, county criminal courts, county criminal courts of appeals, and county civil courts at law, but does not include statutory probate courts as defined by Section 3, Texas Probate Code~~[, other than a county court at law and probate court in Brazoria County].~~

SECTION \_\_\_\_\_. Section 25.0003, Government Code, is amended by adding Subsection (f) to read as follows:

(f) A statutory county court does not have the jurisdiction of a statutory probate court granted statutory probate courts by the Probate Code.

SECTION \_\_\_. Section 25.0021, Government Code, is amended to read as follows:

Sec. 25.0021. JURISDICTION. (a) If a provision of this subchapter conflicts with a specific provision for a particular court or county, the specific provision controls except that this subchapter controls over a specific provision for a particular court or county if the specific provision attempts to create jurisdiction in a statutory probate court other than jurisdiction over probate, guardianship, mental health, or eminent domain proceedings.

(b) A statutory probate court as that term is defined in Section 3(ii), Texas Probate Code, has the general jurisdiction of a probate court as provided by the Texas Probate Code.

SECTION \_\_\_\_\_. Section 25.0024(a), Government Code, is amended to read as follows:

(a) A judge of a statutory probate court shall ~~[in a county with a population of one million or more may]~~ hire with the approval of the commissioners court through the county budget process a court coordinator, an administrative assistant, and an auditor for the court.

SECTION \_\_\_\_\_. Section 25.1802(a), Government Code, is amended to read as follows:

(a) In addition to the jurisdiction provided by Section 25.0003 and other law, and except as limited by Subsection (d), a county court at law in Nueces County has:

(1) the jurisdiction provided by the constitution and by general law for district courts;

(2) ~~[the general jurisdiction provided by Section 25.0021 for a statutory probate court and the jurisdiction and authority of a probate court or a statutory probate court under Sections 4, 5, 5A, and 5B, Texas Probate Code;~~

~~[(3)]~~ concurrent jurisdiction with the district court in disputes ancillary to probate, eminent domain, condemnation, or landlord and tenant matters relating to the adjudication and determination of land titles and trusts, whether testamentary, inter vivos, constructive, resulting, or any other class or type of trust, regardless of the amount in controversy or the remedy sought;

(3) ~~[(4)]~~ concurrent jurisdiction with the district court over civil forfeitures, including surety bond forfeitures without minimum or maximum limitation as to the amount in controversy or remedy sought;

(4) ~~[(5)]~~ jurisdiction in mental health matters, original or appellate, provided by law for constitutional county courts, statutory county courts, ~~[statutory probate courts,]~~ or district courts with mental health jurisdiction, including proceedings under:

(A) Subtitle C, Title 7, Health and Safety Code;

(B) Chapter 462, Health and Safety Code; and

(C) Subtitle D, Title 7, Health and Safety Code;



(5) [(6)] jurisdiction over the collection and management of estates of minors, mentally disabled persons, and deceased persons;

(6) [(7)] concurrent jurisdiction with the district court in all actions by or against a personal representative, in all actions involving an inter vivos trust, in all actions involving a charitable trust, and in all actions involving a testamentary trust, whether the matter is appertaining to or incident to an estate;

[(8) the pendent and ancillary jurisdiction necessary to promote judicial efficiency and economy;] and

(7) [(9)] jurisdiction in all cases assigned, transferred, or heard under Sections 74.054, 74.059, and 74.094, Government Code.

SECTION \_\_\_\_\_. Chapter 25, Government Code, is amended by adding Subchapter E to read as follows:

#### SUBCHAPTER E. MULTICOUNTY STATUTORY PROBATE COURTS

Sec. 25.2651. APPLICATION OF SUBCHAPTER. (a) This subchapter applies only to statutory probate courts composed of more than one county.

(b) Except for Sections 25.0009, 25.0010(b), 25.0011, 25.00264(b), and 25.00265, Subchapters A and B apply to a statutory probate court composed of more than one county.

Sec. 25.2652. JUDGE. (a) The judge is elected by the qualified voters of the counties at the election at which other statutory probate court judges are elected.

(b) The judge must be:

(1) at least 25 years of age;

(2) a resident of one of the counties; and

(3) a licensed attorney in this state who has practiced law or served as a judge of a court in this state, or both combined, for the four years preceding election or appointment.

(c) The judge is entitled to be paid an annual salary set by a vote of a majority of the total number of the county judges and commissioners of the commissioners courts of the counties. The salary shall be apportioned among the counties according to the ratio a county's population bears to the total population of the counties composing the court.

Sec. 25.2653. VACANCY. (a) A vacancy in the office of judge is filled by a joint appointment by the commissioners courts of the counties composing the court. An appointment must be approved by a vote of a majority of the total number of the county judges and commissioners of the commissioners courts of the counties.

(b) An appointee holds office until the next general election and until the successor is elected and has qualified.

(c) This section applies to a vacancy existing on creation of the office of judge.

Sec. 25.2654. PERSONNEL. (a) The county clerk of a particular county serves as clerk in that county.

(b) The prosecuting attorney representing the state in a statutory probate court in a particular county serves as prosecutor in that county.

(c) The sheriff and the other court officials in a county shall serve in the manner required by law for their offices and are entitled to the compensation, fees, and allowances prescribed by law for their offices.

Sec. 25.2655. SEAL. The seal is the same as that provided by law for a statutory probate court except that the seal must contain the name of the court as designated by statute.

Sec. 25.2656. GENERAL LAW. Unless this subchapter contains a conflicting provision, the general law relating to statutory probate courts applies.

SECTION \_\_\_\_\_. Section 25.00266, Government Code, and Section 25.0032, Government Code, as added by Chapter 394, Acts of the 72nd Legislature, Regular Session, 1991, are repealed.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Cain and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 1123** as again amended was again passed to third reading by a viva voce vote.

### **HOUSE BILL 1123 ON THIRD READING**

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1123** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 1123** was read third time and was again finally passed by a viva voce vote.

**(Senator Armbrister in Chair)**

### **HOUSE BILL 1283 ON SECOND READING**

Senator Brown asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

**HB 1283**, Relating to general permits for the discharge of wastewater.

There was objection.

Senator Brown then moved to suspend the regular order of business and take up **HB 1283** for consideration at this time.

The motion prevailed by the following vote: Yeas 25, Nays 3.

Yeas: Armbrister, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Nelson, Ogden, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Whitmire.

Nays: Moncrief, Truan, Zaffirini.

Absent: Barrientos, Nixon.

Absent-excused: Luna.

The bill was read second time.

Senator Bernsen offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **HB 1283** as follows:

(1) In the heading of SECTION 1 of the bill (Committee Printing page 1, line 12), strike "a new Subsection (f)" and substitute "new Subsections (f) and (h)," and strike "relettered as Subsection (h)" and substitute "relettered as Subsection (i)".

(2) In SECTION 1 of the bill, Section 26.040 (Committee Printing page 2, line 13), add a new Subsection (h) to read as follows and reletter the remaining subsections accordingly:

"(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 which 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 shall not be subject to Chapter 2001, Government Code. Such a finding may constitute grounds for the denial of a permit application for the same discharge under Section 26.028 of this Chapter."

The amendment was read and was adopted by a viva voce vote.

Senator Truan offered the following amendment to the bill:

### **Floor Amendment No. 2**

Amend the Senate Committee Report for **HB 1283** on page 1, line 19, in Subsection (a), at the end of line 19, following the word "or" and before the colon (:), add the following:

, for relatively small discharges, if the commission determines it is not practical to issue individual waste water permits or that the general nature of a particular type of activity that produces a waste water discharge is such that requiring individual permits is unnecessarily burdensome both to the waste water discharger and the commission, and the discharges in the category

The amendment was read.

On motion of Senator Truan and by unanimous consent, Floor Amendment No. 2 was withdrawn.

On motion of Senator Brown and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

### **RECORD OF VOTES**

Senators Moncrief, Truan, and Zaffirini asked to be recorded as voting "Nay" on the passage of the bill to third reading.

### **HOUSE BILL 1283 ON THIRD READING**

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 1283** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 3.

Yeas: Armbrister, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Nelson, Nixon, Ogden, Ratliff, Shapiro, Shapleigh, Sibley, Wentworth, West, Whitmire.

Nays: Moncrief, Truan, Zaffirini.

Absent: Barrientos.

Absent-excused: Luna.

**HB 1283** was read third time and was passed by a viva voce vote.

### RECORD OF VOTES

Senators Barrientos, Moncrief, Truan, and Zaffirini asked to be recorded as voting "Nay" on the final passage of the bill.

### RESOLUTION SIGNED

The Presiding Officer, Senator Armbrister in Chair, announced the signing of the following enrolled resolution in the presence of the Senate: **SCR 84**.

### HOUSE BILL 2978 ON SECOND READING

On motion of Senator Lucio and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2978**, Relating to requiring an individual convicted of or receiving deferred adjudication for the offense of prostitution to undergo certain medical tests and to the creation of the offense of engaging in prostitution while knowingly infected with certain diseases.

The bill was read second time.

Senator Lucio offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **HB 2978** as follows:

(1) In Section 2 of the bill, (page 1, line 47), strike "has a sexually transmitted disease or"

(2) In Section 2 of the bill, (page 2, between lines 7 and 8), add a subsection (d) to read as follows:

(d) A defendant who is convicted of or receives deferred adjudication for an offense under Section 43.02, Penal Code, shall, if the court directs, undergo a medical procedure or test designed to show or help show whether the defendant has a sexually transmitted disease within guidelines and funding approved by the commissioner's court.

The amendment was read and was adopted by a viva voce vote.

Senator Ratliff offered the following amendment to the bill:

#### Floor Amendment No. 2

Amend **HB 2978**, adding an appropriately numbered SECTION to read as follows:

"SECTION \_\_\_\_\_. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Lucio and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 2978 ON THIRD READING**

Senator Lucio moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2978** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 2978** was read third time and was passed by a viva voce vote.

### **HOUSE BILL 550 ON SECOND READING**

On motion of Senator Shapiro and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 550**, Relating to the eligibility of certain persons to enter into a lottery contract or to purchase a lottery ticket or receive a lottery prize.

The bill was read second time.

Senator Shapiro offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **HB 550** in SECTION 1 of the bill by striking added Subsection (b) of Section 466.103, Government Code (page 1, lines 19-21, Senate Committee Printing), and substituting the following:

(b) Subsection (a) does not prohibit the executive director from awarding a contract for the purpose of conducting a promotional event to a person who would be denied a license as a sales agent under Section 466.155(a)(4)(C) but not under any other provision of Section 466.155.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Shapiro and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 550 ON THIRD READING**

Senator Shapiro moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 550** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 550** was read third time and was passed by a viva voce vote.

**HOUSE BILL 2896 ON SECOND READING**

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2896**, Relating to the administration and operation of the state Medicaid program.

The bill was read second time.

Senator Moncrief offered the following committee amendment to the bill:

**Committee Amendment No. 1**

Amend **HB 2896** as follows: Strike SECTION 5 of the bill in its entirety and renumber the remaining SECTIONS accordingly.

The committee amendment was read.

On motion of Senator Moncrief, Committee Amendment No. 1 was tabled by a viva voce vote.

Senator Moncrief offered the following committee amendment to the bill:

**Committee Amendment No. 2**

Amend **HB 2896**, adding an appropriately numbered SECTION to read as follows:

"SECTION 15. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

The committee amendment was read.

On motion of Senator Moncrief, Committee Amendment No. 2 was tabled by a viva voce vote.

Senator Moncrief offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 2896** by striking all below the enacting clause and substituting the following:

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) 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 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. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1** (General Appropriations Act), this Act has no effect.

SECTION 14. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read.

Senator Madla offered the following amendment Floor Amendment No. 1:

### **Floor Amendment No. 2**

Amend Floor Amendment No. 1 to **HB 2896** as follows:

(1) On page 5, line 68, add the following new (g) and renumber subsequent sections accordingly.

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

(2) On page 7, line 35, strike Sec. 533.042 in its entirety and substitute the following new section.

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

The amendment to Floor Amendment No. 1 was read and was adopted by a viva voce vote.

Senator Ratliff offered the following amendment to Floor Amendment No. 1:

### **Floor Amendment No. 3**

Amend Floor Amendment No. 1 to **HB 2896**, adding an appropriately numbered SECTION to read as follows:

"SECTION \_\_\_\_\_. This Act takes effect only if a specific appropriation for the implementation of this Act is provided in **HB 1** (General Appropriations Act), Acts of the 76th Legislature, Regular Session, 1999. If no specific appropriation is provided in **HB 1**, the General Appropriations Act, this Act has no effect."

The amendment to Floor Amendment No. 1 was read and was adopted by a viva voce vote.

Question recurring on the adoption of Floor Amendment No. 1 as amended, the amendment as amended was adopted by a viva voce vote.

On motion of Senator Moncrief and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

### HOUSE BILL 2896 ON THIRD READING

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2896** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 2896** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

### HOUSE BILL 2075 ON SECOND READING

On motion of Senator Cain and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 2075**, Relating to the public notice required to be provided by a school district before adopting a proposed budget and tax rate.

The bill was read second time.

Senator Cain offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **HB 2075** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 44.004, Education Code, is amended to read as follows:

Sec. 44.004. NOTICE OF BUDGET AND TAX RATE MEETING; BUDGET ADOPTION. (a) When the budget has been prepared under Section 44.002, the president shall call a meeting of the board of trustees ~~for~~~~[-stating that]~~ the purpose of adopting ~~[the meeting is the adoption of]~~ a budget for the succeeding fiscal year.

(b) The president shall provide for the publication of notice of the budget and proposed tax rate meeting in a daily, weekly, or biweekly newspaper published in the district. If no daily, weekly, or biweekly newspaper is published in the district, the president shall provide for the publication of notice in at least one newspaper of general circulation in the county in which the district's central administrative office is located. ~~[Notice published under this subsection is in addition to notice required by other law.]~~ Notice under this subsection shall be published not earlier than the 30th day or later than the 10th day before the date of the hearing. ~~[A district may include the notice required under this subsection in a notice required under Section 26.06, Tax Code.]~~

(c) The notice of public meeting to discuss and adopt the budget and the proposed tax rate may not be smaller than one-quarter page of a standard-size or a tabloid-size newspaper, and the headline on the notice must be in 18-point or larger type. Subject to Subsection (d), the notice must:

(1) contain a statement in the following form:

"NOTICE OF PUBLIC MEETING TO DISCUSS BUDGET  
AND PROPOSED TAX RATE

"The (name of school district) will hold a public meeting at (time, date, year) in (name of room, building, physical location, city, state). The purpose of this meeting is to discuss the school district's budget that will determine the tax rate that will be adopted. Public participation in the discussion is invited." The statement of the purpose of the meeting must be in bold type. In reduced type, the notice must state: "The tax rate that is ultimately adopted at this meeting or at a separate meeting at a later date may not exceed the proposed rate shown below unless the district publishes a revised notice containing the same information and comparisons set out below and holds another public meeting to discuss the revised notice.";

(2) contain a section entitled "Comparison of Proposed Rates with Last Year's Rates," which must:

(A) show in rows the tax rates described by Subparagraphs (i)-(iii), expressed as amounts per \$100 valuation of property, for columns entitled "Maintenance & Operations," "Interest & Sinking Fund," and "Total," which is the sum of "Maintenance & Operations" and "Interest & Sinking Fund":

(i) the school district's "Last Year's Rate";

(ii) the "Rate to Maintain Same Level of Maintenance & Operations Revenue & Pay Debt Service," which:

(a) in the case of "Maintenance & Operations," is the tax rate that, when applied to the current taxable value for the district, as certified by the chief appraiser under Section 26.01, Tax Code, and as adjusted to reflect changes made by the chief appraiser as of the time the notice is prepared, would impose taxes in an amount that, when added to state funds to be distributed to the district under Chapter 42, would provide the same amount of maintenance and operations taxes and state funds distributed under Chapter 42 per student in average daily attendance for the applicable school year that was available to the district in the preceding school year; and

(b) in the case of "Interest & Sinking Fund," is the tax rate that, when applied to the current taxable value for the district, as certified by the chief appraiser under Section 26.01, Tax Code, and as adjusted to reflect changes made by the chief appraiser as of the time the notice is prepared, and when multiplied by the district's anticipated collection rate, would impose taxes in an amount that, when added to state funds to be distributed to the district under Chapter 46 and any excess taxes collected to service the district's debt during the preceding year but not used for that purpose during that year, would provide the amount required to service the district's debt; and

(iii) the "Proposed Rate";

(B) contain fourth and fifth columns aligned with the columns required by Paragraph (A) that show, for each row required by Paragraph (A):

(i) the "Local Revenue per Student," which is computed by multiplying the district's total taxable value of property, as certified by the chief appraiser for the applicable school year under Section 26.01, Tax Code, and as adjusted to reflect changes made by the chief appraiser as of the time the notice is prepared, by the total tax rate, and dividing the product by the number of students in average daily attendance in the district for the applicable school year; and



(ii) the "State Revenue per Student," which is computed by determining the amount of state aid received or to be received by the district under Chapters 42, 43, and 46 and dividing that amount by the number of students in average daily attendance in the district for the applicable school year; and

(C) contain an asterisk after each calculation for "Interest & Sinking Fund" and a footnote to the section that, in reduced type, states "The Interest & Sinking Fund tax revenue is used to pay for bonded indebtedness on construction, equipment, or both. The bonds, and the tax rate necessary to pay those bonds, were approved by the voters of this district.";

(3) contain a section entitled "Comparison of Proposed Levy with Last Year's Levy on Average Residence," which must:

(A) show in rows the information described by Subparagraphs (i)-(iv), rounded to the nearest dollar, for columns entitled "Last Year" and "This Year":

(i) "Average Market Value of Residences," determined using the same group of residences for each year;

(ii) "Average Taxable Value of Residences," determined after taking into account the limitation on the appraised value of residences under Section 23.23, Tax Code, and after subtracting all homestead exemptions applicable in each year, other than exemptions available only to disabled persons or persons 65 years of age or older or their surviving spouses, and using the same group of residences for each year;

(iii) "Last Year's Rate Versus Proposed Rate per \$100 Value"; and

(iv) "Taxes Due on Average Residence," determined using the same group of residences for each year; and

(B) contain the following information: "Increase (Decrease) in Taxes" expressed in dollars and cents, which is computed by subtracting the "Taxes Due on Average Residence" for the preceding tax year from the "Taxes Due on Average Residence" for the current tax year;

(4) contain the following statement in bold print: "Under state law, the dollar amount of school taxes imposed on the residence of a person 65 years of age or older or of the surviving spouse of such a person, if the surviving spouse was 55 years of age or older when the person died, may not be increased above the amount paid in the first year after the person turned 65, regardless of changes in tax rate or property value.";

(5) contain the following statement in bold print: "Notice of Rollback Rate: The highest tax rate the district can adopt before requiring voter approval at an election is (the school district rollback rate determined under Section 26.08, Tax Code). This election will be automatically held if the district adopts a rate in excess of the rollback rate of (the school district rollback rate)."; and

(6) contain a section entitled "Fund Balances," which must include the estimated amount of interest and sinking fund balances and the estimated amount of maintenance and operation or general fund balances remaining at the end of the current fiscal year that are not encumbered with or by corresponding debt obligation, less estimated funds necessary for the operation of the district before the receipt of the first payment under Chapter 42 in the succeeding school year.

(c-1) For purposes of the notice prescribed by Subsection (c) for 1999, in the section of the notice prescribed by Subsection (c)(2), immediately under the row showing the required information for "Last Year's Rate," there shall be included:

(1) a row entitled "Less State-Funded Tax Relief" showing for each column the amount, expressed as a tax rate, by which the applicable tax rate in the row entitled "Last Year's Rate" is reduced for the 1999 tax year because of the changes in law made by SB 4, Acts of the 76th Legislature, Regular Session, 1999, as determined by the commissioner; and

(2) a row entitled "Last Year's Rate Adjusted for Tax Relief" showing for each column the tax rate determined by subtracting the applicable tax rate in the row entitled "Less State-Funded Tax Relief" from the applicable tax rate in the row entitled "Last Year's Rate."

(c-2) For purposes of the notice prescribed by Subsection (c) for 1999, the calculations in the row for the "Rate to Maintain Same Level of Maintenance & Operations Revenue & Pay Debt Service" shall be made without consideration of state revenue received by the district in the 1999-2000 school year for the pay raise for classroom teachers, full-time librarians, full-time counselors, and full-time school nurses enacted by the 76th Legislature. After the title "Rate to Maintain Same Level of Maintenance & Operations Revenue & Pay Debt Service" there shall be included a distinctive asterisk and a related footnote to the section that, in reduced type, states "The Rate to Maintain the Same Level of Maintenance & Operations Revenue & Pay Debt Service does not reflect state revenue received by the district in the 1999-2000 school year for the pay raise for classroom teachers, full-time librarians, full-time counselors, and full-time school nurses enacted by the 76th Legislature."

(c-3) The commissioner shall adopt emergency rules as soon as practicable after the effective date of this section prescribing the manner in which a school district determines the information required by Subsection (c-1) to be included in the notice prescribed by Subsection (c).

(c-4) The commissioner shall adopt emergency rules as soon as practicable after the effective date of this section prescribing the manner in which a school district makes the calculations for the row entitled "Rate to Maintain Same Level of Maintenance & Operations Revenue & Pay Debt Service" in accordance with Subsection (c-2). The commissioner shall adopt emergency rules as soon as practicable after the effective date of this section modifying the statement to be included in the footnote prescribed by Subsection (c-2) to include the annual dollar amount of the pay raise described by that statement and to make any other changes to reflect the action taken by the 76th Legislature with respect to that pay raise.

(c-5) This subsection and Subsections (c-1), (c-2), (c-3), and (c-4) expire May 1, 2000.

(d) The comptroller shall prescribe the language and format to be used in the part of the notice required by Subsection (c). A notice under Subsection (c) is not valid if it does not substantially conform to the language and format prescribed by the comptroller under this subsection.

(e) A person who owns taxable property in a school district is entitled to an injunction restraining the collection of taxes by the district if the district has not complied with the requirements of Subsections (b), (c), and (d), and the failure to comply was not in good faith. An action to enjoin the collection of taxes must be filed before the date the school district delivers substantially all of its tax bills.

(f) The board of trustees, at the meeting called for that purpose, shall adopt a budget to cover all expenditures for the school district for the next succeeding fiscal year. Any taxpayer of the district may be present and participate in the meeting [hearing].

(g) ~~(d)~~ The budget must be adopted before the adoption of the tax rate for the tax year in which the fiscal year covered by the budget begins.

SECTION 2. Section 26.04, Tax Code, is amended by amending Subsection (e) and adding Subsection (e-1) to read as follows:

(e) By August 7 or as soon thereafter as practicable, the designated officer or employee shall submit the rates to the governing body. He shall deliver by mail to each property owner in the unit or publish in a newspaper in the form prescribed by the comptroller:

(1) the effective tax rate, the rollback tax rate, and an explanation of how they were calculated;

(2) the estimated amount of interest and sinking fund balances and the estimated amount of maintenance and operation or general fund balances remaining at the end of the current fiscal year that are not encumbered with or by corresponding existing debt obligation~~[-, except that for a school district, estimated funds necessary for the operation of the district prior to the receipt of the first state education aid payment in the succeeding school year shall be subtracted from the estimated fund balances];~~

(3) a schedule of the unit's debt obligations showing:

(A) the amount of principal and interest that will be paid to service the unit's debts in the next year from property tax revenue, including payments of lawfully incurred contractual obligations providing security for the payment of the principal of and interest on bonds and other evidences of indebtedness issued on behalf of the unit by another political subdivision and, if the unit is created under Section 52, Article III, or Section 59, Article XVI, Texas Constitution, payments on debts that the unit anticipates to incur in the next calendar year;

(B) the amount by which taxes imposed for debt are to be increased because of the unit's anticipated collection rate; and

(C) the total of the amounts listed in Paragraphs (A)-(B), less any amount collected in excess of the previous year's anticipated collections certified as provided in Subsection (b); ~~and]~~

(4) the amount of additional sales and use tax revenue anticipated in calculations under Section 26.041; ~~[-]~~

(5) in the year that a taxing unit calculates an adjustment under Subsection (i) or (j), the unit shall publish a schedule that includes the following elements:

(A) the name of the unit discontinuing the department, function, or activity;

(B) the amount of property tax revenue spent by the unit listed under Paragraph (A) to operate the discontinued department, function, or activity in the 12 months preceding the month in which the calculations required by this chapter are made; and

(C) the name of the unit that operates a distinct department, function, or activity in all or a majority of the territory of a taxing unit that has discontinued operating the distinct department, function, or activity; and

(6) in the year following the year in which a taxing unit raised its rollback rate as required by Subsection (j), the taxing unit shall publish a schedule that includes the following elements:

(A) the amount of property tax revenue spent by the unit to operate the department, function, or activity for which the taxing unit raised the rollback rate as

required by Subsection (j) for the 12 months preceding the month in which the calculations required by this chapter are made; and

(B) the amount published by the unit in the preceding tax year under Subdivision (5)(B).

(e-1) The notice requirements imposed by Subsections (e)(1)-(6) do not apply to a school district.

SECTION 3. Section 26.05(d), Tax Code, is amended to read as follows:

(d) The governing body of a taxing unit other than a school district may not adopt a tax rate that if applied to the total taxable value would impose an amount of taxes that exceeds last year's levy until it has held a public hearing on the proposed tax rate and has otherwise complied with Section 26.06.

SECTION 4. Section 26.06, Tax Code, is amended by adding Subsection (g) to read as follows:

(g) This section does not apply to a school district. A school district shall provide notice of a public hearing on a tax increase as required by Section 44.004, Education Code.

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

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Cain and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

**HB 2075** as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 2075 ON THIRD READING**

Senator Cain moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 2075** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 2075** was read third time and was passed by a viva voce vote.

### **HOUSE BILL 3328 ON SECOND READING**

On motion of Senator Madla and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3328**, Relating to speed limits on highways of this state.

The bill was read second time.

Senator Madla offered the following amendment to the bill:

#### **Floor Amendment No. 1**

Amend **HB 3328** as follows:

(1) Between "SECTION 3." and "Notwithstanding" (Senate committee report, page 1, line 57), insert "(a)".

(2) At the end of SECTION 3 of the bill (Senate committee report, page 1, between lines 63 and 64), insert the following:

(b) The Texas Department of Transportation may not replace a sign to reflect the change made to Section 545.352, Transportation Code, by this Act until replacement would have occurred in the course of regular maintenance by the department.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Madla and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

### RECORD OF VOTES

Senators Ratliff and Zaffirini asked to be recorded as voting "Nay" on the passage of the bill to third reading.

### HOUSE BILL 3328 ON THIRD READING

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3328** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 2.

Yeas: Armbrister, Barrientos, Bernsen, Bivins, Brown, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Haywood, Jackson, Lindsay, Lucio, Madla, Moncrief, Nelson, Nixon, Ogden, Shapiro, Shapleigh, Sibley, Truan, Wentworth, West, Whitmire.

Nays: Ratliff, Zaffirini.

Absent-excused: Luna.

**HB 3328** was read third time and was passed by the following vote: Yeas 28, Nays 2. (Same as previous roll call)

### HOUSE BILL 3470 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3470**, Relating to the creation of a Parents as Scholars pilot program for certain persons eligible to receive TANF benefits.

The bill was read second time.

Senator Zaffirini offered the following amendment to the bill:

#### Floor Amendment No. 1

Amend **HB 3470** by inserting the appropriately numbered sections as follows: SECTION \_\_\_\_ . Section 31.012, Human Resources Code, is amended by amending Subsection (c) and adding Subsection (f) to read as follows:

(c) A person who is the caretaker of a physically or mentally disabled child who requires the caretaker's presence is not required to participate in a program under this section. Effective January 1, 2000, a single person who is the caretaker of a child

[~~September 1, 1995, a person~~] is not required to participate in a program under this section until the ~~caretaker's [person's]~~ youngest child at the time the ~~caretaker [person]~~ first became eligible for assistance reaches the age of ~~three [five]~~. Effective September 1, ~~2000~~ [~~1997~~], a ~~single person who is the caretaker of a child~~ is exempt until the ~~caretaker's [person's]~~ youngest child at the time the ~~caretaker [person]~~ first became eligible for assistance reaches the age of ~~two [four]~~. Effective ~~September 1, 2001, a single person who is the caretaker of a child is exempt until the caretaker's youngest child at the time the caretaker first became eligible for assistance reaches the age of one.~~ Notwithstanding Sections 31.0035(b) and 32.0255(b), the department shall provide to a person who is exempt under this subsection and who voluntarily participates in a program under Subsection (a)(2) six months of transitional benefits in addition to the applicable limit prescribed by Section 31.0065.

(f) In this section, "caretaker of a child" means the parent or relative of a dependent child with whom the child primarily resides, including a parent or relative who has been appointed under a court order as sole managing conservator or joint managing conservator of the child.

SECTION \_\_\_\_\_. Before implementing any provision of Subsection (c), Section 31.012, Human Resources Code, as amended by this Act, the Texas Department of Human Services shall work in conjunction with the Texas Workforce Commission or a local workforce development board, as appropriate, to develop and implement a client education effort targeted at clients affected by the changes to that section. The department shall inform each client whose exemption status is affected of the pending change, the timeline for the change, and the effect of the change on the client's work requirements and time limits.

SECTION \_\_\_\_\_. If, before implementing any provision of Subsection (c), Section 31.012, Human Resources Code, as amended by this Act, a state agency determines that a waiver or authorization from a federal agency is necessary for implementation, the agency shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION \_\_\_\_\_. Notwithstanding Subsection (c), Section 31.012, Human Resources Code, as amended by this Act, a person receiving financial assistance under Chapter 31, Human Resources Code, on December 31, 1999, remains subject to the exemptions from participation in work or employment activity requirements under Subsection (c), Section 31.012, Human Resources Code, as it existed immediately before the effective date of this Act, until the person's first recertification date that occurs on or after January 1, 2000.

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

The amendment was read and was adopted by a viva voce vote.

Senator Nelson offered the following amendment to the bill:

### **Floor Amendment No. 2**

Amend **HB 3470** as follows:

(1) In SECTION 1 of the bill, in proposed Section 31.045(a), Human Resources Code (Committee printing, page 1, line 18), between "assistance," and "a package", insert "and subject to the time limits imposed under Subsection (d),".

(2) In SECTION 1 of the bill, in proposed Section 31.045(b)(3), Human Resources Code (Committee printing, page 1, line 33), between "department" and "considers", insert ", in cooperation with the Texas Higher Education Coordinating Board,".

(3) In SECTION 1 of the bill, in proposed Section 31.045(b), Human Resources Code, at the end Subdivision (3) (Committee printing, page 1, line 35), strike "and" and substitute the following:

(4) require that the person has been admitted into an institution of higher education, as defined by Section 61.003, Education Code, that offers a degree that meets the requirements of Subdivision (3); and

(4) In SECTION 1 of the bill, in proposed Section 31.045(b)(4), Human Resources Code (Committee printing, page 1, line 36), strike "(4)" and substitute "(5)".

(5) In SECTION 1 of the bill, strike proposed Section 31.045(d), Human Resources Code (Committee printing, page 1, lines 46-51), and substitute the following:

(d) The department by rule shall establish time limits in compliance with this subsection that apply to a program participant. After providing assistance to a program participant for 12 months, the department must conduct a review of the participant's educational progress before providing additional assistance. If the department determines that the participant has made satisfactory progress and is in compliance with any other applicable requirement, the department may provide assistance to the participant for an additional 12 months. The department may not provide assistance to a participant for more than 24 months. This subsection does not prohibit the department from terminating a participant's assistance at any time if the participant fails to comply with all applicable requirements.

(e) In addition to time limits, the department by rule shall establish other conditions applicable to a program participant. The conditions must include a requirement that a participant participate for not less than 15 hours a week in employment activities approved by the department.

(6) In SECTION 1 of the bill, in proposed Section 31.045(e), Human Resources Code (Committee printing, page 1, line 52), strike "(e)" and substitute "(f)".

(7) In SECTION 1 of the bill, in proposed Section 31.045(f), Human Resources Code (Committee printing, page 1, line 62), strike "(f)" and substitute "(g)".

(8) In SECTION 1 of the bill, in proposed Section 31.045(g), Human Resources Code (Committee printing, page 2, line 5), strike "(g)" and substitute "(h)".

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

### HOUSE BILL 3470 ON THIRD READING

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3470** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 3470** was read third time and was passed by the following vote: Yeas 29, Nays 1.

Nays: Harris.

Absent-excused: Luna.

## HOUSE BILL 826 ON SECOND READING

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 826**, Relating to alternative dispute resolution proceedings of governmental bodies.

The bill was read second time.

Senator Wentworth offered the following amendment to the bill:

### Floor Amendment No. 1

Amend **HB 826** as follows:

(1) Immediately following the enacting clause (Engrossed Printing, page 1, between lines 4 and 5), add the following SECTIONS to the bill and renumber subsequent SECTIONS of the bill appropriately:

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.

(2) In SECTION 6(b) of the bill (Engrossed Printing, page 16, line 20), correct the reference to the SECTIONS of the Act as appropriate to reflect the renumbering of the SECTIONS of the bill.

(3) In SECTION 7 of the bill (Engrossed Printing, page 16, line 26), immediately following "1999," strike "is" and substitute "and a record associated with that proceeding, are".

The amendment was read and was adopted by a viva voce vote.

Senator Wentworth offered the following amendment to the bill:

### **Floor Amendment No. 2**

Amend **HB 826** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS accordingly:

SECTION \_\_\_\_\_. 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.

The amendment was read and was adopted by a viva voce vote.

Senator Cain offered the following amendment to the bill:

### **Floor Amendment No. 3**

Amend **HB 826** as follows:

(1) In SECTION 5 of the bill, in the first sentence of Section 2260.052(c), Government Code (Senate Committee Report, page 5, line 61), between "negotiation" and "of", insert "and mediation".

(2) In SECTION 5 of the bill, after the second sentence of Section 2260.052(c), Government Code (Senate Committee Report, page 5, line 64), insert:  
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.

(3) In SECTION 5 of the bill, insert a new Section 2260.056, Government Code (Senate Committee Report, page 6, between lines 18 and 19), to read as follows:

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).

(4) In SECTION 5 of the bill, strike Section 2260.104(e), Government Code (Senate Committee Report, page 6, line 66), and substitute a new Section 2260.104(e), Government Code, to read as follows:

(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).

The amendment was read and was adopted by a viva voce vote.

Senator Ratliff offered the following amendment to the bill:

### **Floor Amendment No. 4**

Amend **HB 826**, in SECTION 5 (Senate Committee Report, page 6, between lines 66 and 67), by inserting a new Section 2260.104(f), Government Code, to read as follows:

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

The amendment was read and was adopted by a viva voce vote.

Senator Ratliff offered the following amendment to the bill:

**Floor Amendment No. 5**

Amend **HB 826**, in SECTION 5 (Senate Committee Report, page 5, between lines 12 and 13), by inserting a new Section 2260.003(c), Government Code, to read as follows:

- (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.

The amendment was read.

On motion of Senator Ratliff and by unanimous consent, Floor Amendment No. 5 was temporarily withdrawn.

Senator Ratliff offered the following amendment to the bill:

**Floor Amendment No. 6**

Amend **HB 826** as follows:

(1) In SECTION 5, strike Section 2260.105(a), Government Code (Senate Committee Report page 6, lines 67-69), and substitute a new Section 2260.105(a), Government Code, to read as follows:

(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.

(2) In SECTION 5 of the bill (Senate Committee Report page 7, between lines 9 and 10), insert a new Section 2260.1055, Government Code, to read as follows:

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.

The amendment was read and was adopted by a viva voce vote.

Senator Ratliff offered the following amendment to the bill:

**Floor Amendment No. 7**

Amend **HB 826**, in SECTION 5 (Senate Committee Report, page 7, between lines 16 and 17), by inserting a new Section 2260.108, Government Code, to read as follows:

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.

The amendment was read and was adopted by a viva voce vote.

Senator Ratliff offered the following amendment to the bill:

### **Floor Amendment No. 8**

Amend **HB 826** by adding a new SECTION 6 and renumbering other SECTIONS accordingly: (Committee Printing, page 7, line 17)

SECTION 6. Section 76.04, Education Code, is amended to read as follows:

Sec. 76.04. SUITS; VENUE; CITATION. The board may sue ~~[and be sued]~~ in the name of the institution. Venue is in Smith or Travis County. The institution may be impleaded by service of citation on its president~~[-, and legislative consent to suits against the institution is granted].~~

The amendment was read and was adopted by a viva voce vote.

Senator Ratliff again offered the following amendment to the bill:

### **Floor Amendment No. 5**

Amend **HB 826**, in SECTION 5 (Senate Committee Report, page 5, between lines 12 and 13), by inserting a new Section 2260.003(c), Government Code, to read as follows:

(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.

The amendment was read.

Senator West offered the following amendment to Floor Amendment No. 5:

### **Floor Amendment No. 9**

Amend Floor Amendment No. 5 to **HB 826**, in SECTION 5 (Senate Committee Report, page 5, between lines 12 and 13), by inserting a new Section 2260.003(c), Government Code, to read as follows:

(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; or
- (4) home office overhead.

Renumber accordingly.

The amendment to Floor Amendment No. 5 was read and was adopted by a viva voce vote.

Question recurring on the adoption of Floor Amendment No. 5 as amended, the amendment as amended was adopted by a viva voce vote.

On motion of Senator Wentworth and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

### **HOUSE BILL 826 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 826** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 826** was read third time and was passed by a viva voce vote.

**(President in Chair)**

### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 445 ADOPTED**

Senator Moncrief called from the President's table the Conference Committee Report on **SB 445**. The Conference Committee Report was filed with the Senate on Thursday, May 20, 1999.

On motion of Senator Moncrief, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

### **HOUSE BILL 3516 ON SECOND READING**

On motion of Senator Carona and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3516**, Relating to the regulation of funeral directing and embalming.

The bill was read second time and was passed to third reading by a viva voce vote.

### **HOUSE BILL 3516 ON THIRD READING**

Senator Carona moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3516** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 3516** was read third time and was passed by a viva voce vote.

### **HOUSE BILL 3061 ON SECOND READING**

On motion of Senator Bernsen and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

**HB 3061**, Relating to the issuance of permits for the operation of certain vehicles that exceed maximum size or weight limitations.

The bill was read second time.

Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 1**

Amend **HB 3061** (Senate Committee Printing) on page 1, line 18, by adding before the period at the end of the line "For purposes of this section, a governmental entity is defined as a county or municipality of this state, a state agency, or a department or agency of the federal government."

The amendment was read and was adopted by a viva voce vote.

Senator Ogden offered the following amendment to the bill:

**Floor Amendment No. 2**

Amend **HB 3061** (Senate Committee Printing) as follows:

(1) On page 1, after SECTION 2 of the bill, add a new SECTION 3 which reads as follows:

"SECTION 3. Section 623.0111(a)(2), Transportation Code, is amended to read as follows:

(2) pay in addition to other fees an annual fee in an amount determined according to the following table:

Number of Counties Designated	Fee
1-20	<del>[\$125]</del> \$250
21-40	<del>[\$345]</del> \$690
41-60	<del>[\$565]</del> \$1130
61-80	<del>[\$785]</del> \$1570
81-100	<del>[\$1005]</del> \$2010
101-254	<del>[\$2000]</del> \$4000"

(2) Renumber subsequent SECTIONS appropriately.

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

Yeas: Armbrister, Barrientos, Cain, Carona, Duncan, Ellis, Fraser, Gallegos, Harris, Lindsay, Madla, Nelson, Nixon, Ogden, Ratliff, Sibley, Truan, Wentworth, West, Zaffirini.

Nays: Bernsen, Bivins, Brown, Haywood, Jackson, Lucio, Moncrief, Shapleigh, Whitmire.

Absent: Shapiro.

Absent-excused: Luna.

**(Senator Bivins in Chair)**

Senator Bernsen offered the following amendment to the bill:

**Floor Amendment No. 3**

Amend **HB 3061** by making the following change:

1) On page 1, line 19 of the Senate Committee Report add the following SECTION 2 and renumber the remaining sections appropriately:

SECTION 2. Subchapter Z, Chapter 622, Transportation Code, is amended by adding Section 622.954 to read as follows:

Sec. 622.954 TOW TRUCKS. (a) A permit is not required to exceed the weight limitations of Section 621.101 by a combination of a tow truck and another vehicle or vehicle combination if:

(1) the nature of the service provided by a tow truck is needed to remove disabled, abandoned, or accident-damaged vehicles; and

(2) the tow truck is towing the other vehicle or vehicle combination directly to the nearest authorized place of repair, terminal, or vehicle storage facility.

(b) This 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.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Bernsen and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

### HOUSE BILL 3061 ON THIRD READING

Senator Bernsen moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **HB 3061** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

**HB 3061** was read third time and was passed by the following vote: Yeas 30, Nays 0. (Same as previous roll call)

(President in Chair)

### SENATE RESOLUTION 1076

Senator Shapleigh offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 76th Legislature, Regular Session, 1999, That Senate Rule 12.03 is suspended in part, as provided by Senate Rule 12.08, to enable the conference committee appointed to resolve the differences on **HB 2025**, relating to the establishment and operation of the Border Health Institute, to consider and take action on the following matters:

(1) Senate Rules 12.03(1), (3), and (4) are suspended to permit the committee to amend text that is not in disagreement and to add additional text not included in either the house or senate version of the bill, in Section 1 of the bill, in added Section 151.004(a), Education Code, to read as follows:

(a) The governing board of the institute is composed of the chief executive officer or president of each entity that is a member of the institute or that officer's or president's designee.

Explanation: This change allows entities that participate in the Border Health Institute that do not have a chief executive officer but that do have a president to have the entity's president be a member of the governing board of the institute or to appoint a designee to the board.

(2) Senate Rules 12.03(1), (3), and (4) are suspended to permit the committee to amend text that is not in disagreement and to add additional text not included in either

the house or senate version of the bill, in Section 1 of the bill, in added Section 151.008, Education Code, to read as follows:

Sec. 151.008. ANNUAL REPORTING. Each year, the institute shall provide to each member of the governing board of the institute and to each member of the legislature whose district includes any portion of a county where the Border Health Institute is established or operating an annual audited financial statement and a status report of each project undertaken by the institute.

Explanation: This change allows each member of the legislature whose district includes any portion of the county in which the Border Health Institute is established or operating to receive an annual audited financial statement and status report on each project the institute has undertaken.

The resolution was read and was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

### **HOUSE CONCURRENT RESOLUTION 292**

The President laid before the Senate the following resolution:

**HCR 292**, Recalling **HB 2354** from the governor.

HARRIS

The resolution was read.

On motion of Senator Harris and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

### **HOUSE CONCURRENT RESOLUTION 295**

The President laid before the Senate the following resolution:

**HCR 295**, Instructing the enrolling clerk of the house to make corrections in **HB 2617**.

HARRIS

The resolution was read.

On motion of Senator Harris and by unanimous consent, the resolution was considered immediately and was adopted by a viva voce vote.

### **SENATE RESOLUTION 1085**

Senator Ratliff offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 76th Legislature, Regular Session, 1999, That Senate Rule 12.03 be suspended in part as provided by Senate Rule 12.08 to enable the conference committee appointed to resolve the differences on **HB 1676**, relating to permanent funds for certain public health purposes, to consider and take action on the following matters:

1. Senate Rule 12.03(1) is suspended to permit the committee to change the text of Section 403.105(a), Government Code, in SECTION 1 of the bill, so that the subsection reads as follows:



(a) The permanent fund for tobacco education and enforcement is a dedicated account in the general revenue fund. The fund is composed of:

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

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

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

Explanation: This change is necessary to provide that the permanent fund for tobacco education and enforcement is a dedicated account in the general revenue fund.

2. Senate Rule 12.03(1) is suspended to permit the committee to change the text of Section 403.1055(a), Government Code, in SECTION 1 of the bill, so that the subsection reads as follows:

(a) The permanent fund for children and public health is a dedicated account in the general revenue fund. The fund is composed of:

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

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

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

Explanation: This change is necessary to provide that the permanent fund for children and public health is a dedicated account in the general revenue fund.

3. Senate Rule 12.03(3) is suspended to permit the committee to add text in Section 403.1055(c), Government Code, in SECTION 1 of the bill, so that the subsection reads as follows:

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

Explanation: This change is necessary to specify the types of specific public health priorities for which the available earnings of the permanent fund for children and public health may be used.

4. Senate Rule 12.03(1) is suspended to permit the committee to change the text of Section 403.106(a), Government Code, in SECTION 1 of the bill, so that the subsection reads as follows:

(a) The permanent fund for emergency medical services and trauma care is a dedicated account in the general revenue fund. The fund is composed of:

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

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

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

Explanation: This change is necessary to provide that the permanent fund for emergency medical services and trauma care is a dedicated account in the general revenue fund.

5. Senate Rule 12.03(1) is suspended to permit the committee to change the text of Section 403.1065(a), Government Code, in SECTION 1 of the bill, so that the subsection reads as follows:

(a) The permanent fund for rural health facility capital improvement is a dedicated account in the general revenue fund. The fund is composed of:

- (1) money transferred to the fund at the direction of the legislature;
- (2) payments of interest and principal on loans made under Subchapter G, Chapter 106, Health and Safety Code, and fees collected under that subchapter;
- (3) gifts and grants contributed to the fund; and
- (4) the available earnings of the fund determined in accordance with Section 403.1068.

Explanation: This change is necessary to provide that the permanent fund for rural health facility capital improvement is a dedicated account in the general revenue fund.

6. Senate Rule 12.03(1) is suspended to permit the committee to change the text of Sections 403.1067 and 403.1068(a), Government Code, in SECTION 1 of the bill, so that the sections read as follows:

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

- (1) lobbying expenses incurred by the recipient;
- (2) a person or entity that is required to register with the Texas Ethics Commission under Chapter 305, Government Code;
- (3) any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity described by Subdivision (2); or
- (4) a person or entity who has been hired to represent associations or other entities for the purpose of affecting the outcome of legislation, agency rules, ordinances, or other government policies.

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

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

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

Explanation: This change is necessary to allow the addition of cross-references to a newly added section.

7. Senate Rule 12.03(1) is suspended to permit the committee to change the text of Section 106.201(2), Health and Safety Code, in SECTION 2 of the bill, so that the subdivision reads as follows:

- (2) "Rural county" means:
  - (A) a county that has a population of 150,000 or less; or
  - (B) with respect to a county that has a population of more than 150,000 and that contains a geographic area that is not delineated as urbanized by the federal census bureau, that part of the county that is not delineated as urbanized.

Explanation: This change is necessary to provide that a county of 150,000 or less is a rural county for purposes of rural health facility capital improvement.

8. Senate Rules 12.03(1) and (3) are suspended to permit the committee to change the text of, and add text to, SECTION 3 of the bill, so that the section reads as follows:

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

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

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

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

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

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

Explanation: These changes are necessary to ensure that money transferred to the permanent funds established by the Act comes from tobacco proceeds and that \$100 million is transferred to the permanent fund for children and public health.

The resolution was read and was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

### SENATE RESOLUTION 1086

Senator Ratliff offered the following resolution:

BE IT RESOLVED by the Senate of the State of Texas, 76th Legislature, Regular Session, 1999, That Senate Rule 12.03 is suspended in part, as provided by Senate Rule 12.08, to enable the conference committee appointed to resolve the differences on **HB 1945**, relating to the creation of permanent funds for certain public health purposes conducted by institutions of higher education, to consider and take action on the following matters:

(1) Senate Rule 12.03(1) is suspended to permit the committee to amend text that is not in disagreement, in Section 3(b) of the bill, to read as follows:

(b) On the effective date of this Act, the comptroller shall transfer from the general revenue fund to the separate permanent endowment trust fund established by Subchapter B, Chapter 63, Education Code, as added by this Act, for each of the following institutions of higher education or components of an institution of higher education the following amounts:

. . .

(12) the regional academic health center established under Section 74.611, Education Code - \$20 million; and . . .

Explanation: This change is necessary to increase the amount of the permanent endowment fund established by Subchapter B, Chapter 63, Education Code, as proposed by **HB 1945**, for the regional academic health center established under Section 74.611, Education Code, from \$5 million to \$20 million.

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

(e) On the effective date of this Act, the comptroller shall transfer \$1 million from the general revenue fund to the Texas Higher Education Coordinating Board to fund a contract with the Baylor University Medical Center in Dallas for the Institute of Metabolic Disease to study the relationship of maternal smoking and metabolic derangements to the impaired growth rate in low-weight infants, and for the Division of Prevention and Wellness to support an antitobacco task force. If the coordinating board enters into a contract under this subsection, the coordinating board shall enter into the contract in the same manner as a contract entered into under Section 61.092, Education Code, as amended by this Act.

Explanation: This change is necessary to allow the transfer of \$1 million to the Texas Higher Education Coordinating Board to fund a contract with the Baylor University Medical Center in Dallas to study tobacco-related health issues and conduct related activities.

The resolution was read and was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

### **CONFERENCE COMMITTEE ON HOUSE BILL 2641**

Senator Brown called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 2641** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **HB 2641** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Brown, Chair; Nelson, Fraser, Zaffirini, and Madla.

### **SENATE RULE 7.21 SUSPENDED (Printing Rule)**

On motion of Senator Bivins and by unanimous consent, Senate Rule 7.21 was suspended as it relates to the printing of the House amendments to **SB 4**.

### **SENATE BILL 4 WITH HOUSE AMENDMENTS**

Senator Bivins called **SB 4** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

### Amendment

Amend **SB 4** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED

#### AN ACT

relating to public school finance, property tax relief, and public education.

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

#### ARTICLE 1. SCHOOL FINANCE AND PROPERTY TAX RELIEF

SECTION 1.01. Subdivision (3), Section 41.001, Education Code, is amended to read as follows:

(3) "Weighted average daily attendance" has the meaning assigned by Section 42.302~~[-except that:~~

~~[(A) weighted average daily attendance is computed using the estimate of average daily attendance under Section 42.254; and~~

~~[(B) the estimate under Section 42.254 is modified by including a student residing in a school district but attending school in another district in the estimate for the district of the student's residence and not of the district in which the student attends school].~~

SECTION 1.02. Section 41.002, Education Code, is amended by amending Subsections (a), (b), (e), and (f) and adding Subsections (g) and (h) to read as follows:

(a) A school district may not have a wealth per student that exceeds \$295,000 [~~\$280,000~~].

(b) ~~For~~ ~~[Except as provided by Subsection (c), for]~~ purposes of this chapter, the commissioner shall adjust, in accordance with Section 42.2521 ~~[by the amount of the decline]~~, the taxable values of a school district that, due to factors beyond the control of the board of trustees, experiences a rapid decline ~~[from the preceding year]~~ in the tax base used in calculating taxable values ~~[that is beyond the control of the board of trustees of the district]~~.

(e) Notwithstanding Subsection (a) and except as provided by Subsection (g), for the ~~[1997-1998, 1998-1999, and]~~ 1999-2000, 2000-2001, and 2001-2002 school years, in accordance with a determination of the commissioner, the wealth per student that a school district may have after exercising an option under Section 41.003(2) or (3) may not be less than the amount needed to maintain state and local revenue in an amount equal to state and local revenue per weighted student for maintenance and operation of the district for the 1992-1993 school year less the district's current year distribution per weighted student from the available school fund, other than amounts distributed under Chapter 31, if the district imposes an effective tax rate for maintenance and operation of the district equal to the greater of the district's current tax rate or \$1.50 on the \$100 valuation of taxable property. This subsection expires September 1, 2002 ~~[2000]~~.

(f) For purposes of Subsection (e), a school district's effective tax rate is determined by dividing the total amount of taxes collected by the district for the applicable school year less any amounts paid into a tax increment fund under Chapter 311, Tax Code, by the quotient of the district's taxable value of property, as determined under Subchapter M, Chapter 403, Government Code, divided by 100. This subsection expires September 1, 2002 ~~[2000]~~.

(g) The wealth per student that a district may have under Subsection (e) is adjusted as follows:

$$\text{AWPS} = \text{WPS} \times ((\text{EWL}/280,000 - 1) \times \text{DTR}/1.5) + 1$$

where:

"AWPS" is the district's wealth per student;

"WPS" is the district's wealth per student determined under Subsection (e);

"EWL" is the equalized wealth level; and

"DTR" is the district's adopted maintenance and operations tax rate for the current school year.

(h) Subsection (g) and this subsection expire September 1, 2002.

SECTION 1.03. Section 41.003, Education Code, is amended to read as follows:

Sec. 41.003. OPTIONS TO ACHIEVE EQUALIZED WEALTH LEVEL. A district with a wealth per student that exceeds the equalized wealth level may take any combination of the following actions to achieve the equalized wealth level:

- (1) consolidation with another district as provided by Subchapter B;
- (2) detachment of territory as provided by Subchapter C;
- (3) purchase of average daily attendance credit as provided by Subchapter D;
- (4) educating [~~contracting for the education of~~] nonresident students as provided by Subchapter E; or

- (5) tax base consolidation with another district as provided by Subchapter F.

SECTION 1.04. Subchapter A, Chapter 41, Education Code, is amended by adding Section 41.0031 to read as follows:

Sec. 41.0031. INCLUSION OF ATTENDANCE CREDITS AND NONRESIDENTS IN WEIGHTED AVERAGE DAILY ATTENDANCE. In determining whether a school district has a wealth per student less than or equal to the equalized wealth level, the commissioner shall use:

(1) the district's final weighted average daily attendance; and

(2) the number of attendance credits a district purchases under Subchapter D or the number of nonresident students a district educates under Subchapter E for a school year.

SECTION 1.05. Subsection (a), Section 41.004, Education Code, is amended to read as follows:

(a) Not later than July 15 of each year, using the estimate of enrollment under Section 42.254, the commissioner shall review the wealth per student of school districts in the state and shall notify:

(1) each district with wealth per student exceeding the equalized wealth level;

(2) each district to which the commissioner proposes to annex property detached from a district notified under Subdivision (1), if necessary, under Subchapter G; and

(3) each district to which the commissioner proposes to consolidate a district notified under Subdivision (1), if necessary, under Subchapter H.

SECTION 1.06. Section 41.093, Education Code, is amended by adding Subsection (c) to read as follows:

(c) The cost of an attendance credit for a school district is computed using the final tax collections of the district.

SECTION 1.07. Subchapter E, Chapter 41, Education Code, is amended by adding Section 41.124 to read as follows:

Sec. 41.124. TRANSFERS. (a) The board of trustees of a school district with a wealth per student that exceeds the equalized wealth level may reduce the district's wealth per student by serving nonresident students who transfer to the district and are educated by the district but who are not charged tuition. A district that exercises the option under this subsection is not required to execute an agreement with the school district in which a transferring student resides and must certify to the commissioner that the district has not charged or received tuition for the transferring students.

(b) A school district with a wealth per student that exceeds the equalized wealth level that pays tuition to another school district for the education of students that reside in the district may apply the amount of tuition paid toward the cost of the option chosen by the district to reduce its wealth per student. The amount applied under this subsection may not exceed the amount determined under Section 41.093 as the cost of an attendance credit for the district. The commissioner may require any reports necessary to document the tuition payments.

(c) A school district that receives tuition for a student from a school district with a wealth per student that exceeds the equalized wealth level may not claim attendance for that student for purposes of Chapters 42 and 46.

SECTION 1.08. The heading to Subchapter E, Chapter 41, Education Code, is amended to read as follows:

SUBCHAPTER E. [~~CONTRACT FOR~~] EDUCATION  
OF NONRESIDENT STUDENTS

SECTION 1.09. Subsection (d), Section 42.007, Education Code, is amended to read as follows:

(d) The board shall conduct a study on the funding elements each biennium, as appropriate. The study must include a determination of the projected cost to the state in the next biennium of ensuring the ability of each school district to maintain existing programs without increasing property tax rates.

SECTION 1.10. Section 42.101, Education Code, is amended to read as follows:

Sec. 42.101. BASIC ALLOTMENT. For each student in average daily attendance, not including the time students spend each day in special education programs in an instructional arrangement other than mainstream or career and technology education programs, for which an additional allotment is made under Subchapter C, a district is entitled to an allotment of \$2,537 [~~\$2,387~~]. A greater amount for any school year may be provided by appropriation.

SECTION 1.11. Subchapter B, Chapter 42, Education Code, is amended by adding Section 42.106 to read as follows:

Sec. 42.106. ADJUSTED PROPERTY VALUE FOR DISTRICTS NOT OFFERING ALL GRADE LEVELS. For purposes of this chapter, the taxable value of property of a school district that contracts for students residing in the district to be educated in another district under Section 25.039(a) is adjusted by applying the formula:

$$\text{ADPV} = \text{DPV} - (\text{TN}/.015)$$

where:

"ADPV" is the district's adjusted taxable value of property;

"DPV" is the taxable value of property in the district for the preceding tax year determined under Subchapter M, Chapter 403, Government Code; and

"TN" is the total amount of tuition required to be paid by the district under Section 25.039 for the school year for which the adjustment is made.

SECTION 1.12. Section 42.152, Education Code, is amended by adding Subsections (s) and (t) to read as follows:

(s) A reduction made under this section or the General Appropriations Act in the allotment under this section does not affect the computation of students in weighted average daily attendance for purposes of Subchapter F.

(t) For the 1999-2000 and 2000-2001 school years, the commissioner shall reduce the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302 by an amount sufficient to reduce state costs in an amount equal to the increase in state costs due to the application of Subsection (s). The commissioner shall determine the same reduction for both school years and shall announce the determination as soon as practicable after August 1, 1999. A determination by the commissioner under this section is final and may not be appealed. This subsection expires September 1, 2001.

SECTION 1.13. Effective September 1, 2000, Subchapter C, Chapter 42, Education Code, is amended by adding Section 42.158 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 \$400 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 \$400 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 \$40 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) The commissioner may adopt rules necessary to implement this section.

(f) In this section, "instructional facility" has the meaning assigned by Section 46.001.

SECTION 1.14. Section 42.2511, Education Code, is amended to read as follows:

Sec. 42.2511. [~~COMPUTATION OF STATE AID FOR 1997-1998 SCHOOL YEAR;~~] ADDITIONAL STATE AID FOR HOMESTEAD EXEMPTION. (a) Notwithstanding any other provision of this chapter, [~~in computing state aid for the 1997-1998 school year, a school district's taxable value of property under Subchapter M, Chapter 403, Government Code, is determined as if the increase in the homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, and the additional limitation on tax increases under Section 1-b(d) of that article, as proposed by H.J.R. No. 4, 75th Legislature, Regular Session, 1997, had been in effect for the 1996 tax year.~~

[(b) For the 1997-1998 and 1998-1999 school years,] a school district is entitled to additional state aid to the extent that state aid under this chapter based on the determination of the school district's taxable value of property as provided under



Subchapter M, Chapter 403, Government Code, [by Subsection (a)] does not fully compensate the district for ad valorem tax revenue [that would have been] lost due to the increase in the homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, as proposed by H.J.R. No. 4, Acts of the 75th Legislature, Regular Session, 1997, and the additional limitation on tax increases under Section 1-b(d), Article VIII, Texas Constitution, as proposed by H.J.R. No. 4, Acts of the 75th Legislature, Regular Session, 1997 [if the increased exemption and additional limitation had been in effect for the 1996 tax year].

(b) The commissioner, using information provided by the comptroller, shall compute the amount of additional state aid to which a district is entitled under this section [subsection]. A determination by the commissioner under this section [subsection] is final and may not be appealed.

[ (c) This section expires September 1, 1999. ]

SECTION 1.15. Subchapter E, Chapter 42, Education Code, is amended by adding Sections 42.2512 and 42.2513 to read as follows:

Sec. 42.2512. SALARY TRANSITION AID. (a) For the 1999-2000 and 2000-2001 school years, a school district, including a school district that is otherwise ineligible for state aid under this chapter, is entitled to state aid in an amount, as determined by the commissioner, equal to the difference, if any, between:

(1) the amount that the district, under Section 21.402(c-1), must increase the salaries of classroom teachers, full-time librarians, full-time counselors, and full-time nurses; and

(2) an amount equal to 80 percent of the amount of additional funds to which the district is entitled due to the increases made by S.B. No. 4, Acts of the 76th Legislature, Regular Session, 1999, to:

(A) the equalized wealth level under Section 41.002;

(B) the basic allotment under Section 42.101; and

(C) the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302.

(b) A determination by the commissioner under this section is final and may not be appealed.

(c) The commissioner may adopt rules to implement this section.

(d) This section expires September 1, 2001.

Sec. 42.2513. ADDITIONAL SALARY TRANSITION AID. (a) For the 1999-2000 and 2000-2001 school years, the commissioner shall increase the entitlement under this chapter of a school district that experiences additional salary cost resulting from Chapter 592 (H.B. No. 4), Acts of the 75th Legislature, Regular Session, 1997, that is not fully funded by an amount equal to 20 percent of the amount of additional funds to which the district is entitled due to the increases made by S.B. No. 4, Acts of the 76th Legislature, Regular Session, 1999, to:

(1) the equalized wealth level under Section 41.002;

(2) the basic allotment under Section 42.101; and

(3) the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302.

(b) The amount of additional salary cost shall be computed by determining what the district's salary cost for the 1996-1997 school year would have been if, for purposes of the minimum salary schedule under Section 21.402, as that section existed on September 1, 1996, the amount appropriated for purposes of the Foundation School

Program for the 1997-1998 state fiscal year were increased by \$520 million and comparing that cost to the amount the district was actually required to pay under Section 21.402. For this purpose, the commissioner shall use 1996-1997 employment and salary data as reported through the Public Education Information Management System (PEIMS).

(c) The commissioner shall determine the amount of additional state aid under this section to which each school district is entitled. A decision of the commissioner under this section is final and may not be appealed.

(d) This section expires September 1, 2001.

SECTION 1.16. Effective September 1, 2001, Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.2514 to read as follows:

Sec. 42.2514. ADJUSTMENT TO FUNDING ELEMENTS. (a) The commissioner shall increase the basic allotment under Section 42.101 and the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302 to provide school districts in the aggregate the same amount of state funds that would have been delivered under this chapter if former Section 42.102, as that section existed on May 31, 1999, had not been repealed.

(b) An increase under Subsection (a) must be in proportion to the amount of funds that would have been available in Tiers 1 and 2 of the Foundation School Program because of adjustment if former Section 42.102 had not been repealed.

(c) A determination by the commissioner under this section is final and may not be appealed.

SECTION 1.17. Subchapter E, Chapter 42, Education Code, is amended by adding Sections 42.2521 and 42.2522 to read as follows:

Sec. 42.2521. ADJUSTMENT FOR RAPID DECLINE IN TAXABLE VALUE OF PROPERTY. (a) For purposes of Chapters 41, 46, and this chapter, and to the extent money specifically authorized to be used under this section is available, the commissioner shall adjust the taxable value of property in a school district that, due to factors beyond the control of the board of trustees, experiences a rapid decline in the tax base used in calculating taxable values in excess of four percent of the tax base used in the preceding year to reflect the current year taxable values.

(b) To the extent that a sufficient amount of money is not available to fund all adjustments under this section, the commissioner shall reduce adjustments in the manner provided by Section 42.253(h) so that the total amount of adjustments equals the amount of money available to fund the adjustments.

(c) A decision of the commissioner under this section is final and may not be appealed.

Sec. 42.2522. ADJUSTMENT FOR OPTIONAL HOMESTEAD EXEMPTION. (a) In any school year, the commissioner may not provide funding under this chapter based on a school district's taxable value of property computed in accordance with Section 403.302(d)(2), Government Code, unless:

(1) funds are specifically appropriated for purposes of this section; or

(2) the commissioner determines that the total amount of state funds appropriated for purposes of the Foundation School Program for the school year exceeds the amount of state funds distributed to school districts in accordance with Section 42.253 based on the taxable values of property in school districts computed in accordance with Section 403.302(d), Government Code, without any deduction for residence homestead exemptions granted under Section 11.13(n), Tax Code.

(b) In making a determination under Subsection (a)(2), the commissioner shall:

(1) notwithstanding Section 42.253(b), reduce the entitlement under this chapter of a school district whose final taxable value of property is higher than the estimate under Section 42.254 and make payments to school districts accordingly; and

(2) give priority to school districts that, due to factors beyond the control of the board of trustees, experience a rapid decline in the tax base used in calculating taxable values in excess of four percent of the tax base used in the preceding year.

(c) In the first year of a state fiscal biennium, before providing funding as provided by Subsection (a)(2), the commissioner shall ensure that sufficient appropriated funds for purposes of the Foundation School Program are available for the second year of the biennium, including funds to be used for purposes of Section 42.2521.

(d) If the commissioner determines that the amount of funds available under Subsection (a)(1) or (2) does not at least equal the total amount of state funding to which districts would be entitled if state funding under this chapter were based on the taxable values of property in school districts computed in accordance with Section 403.302(d)(2), Government Code, the commissioner may, to the extent necessary, provide state funding based on a uniform lesser fraction of the deduction under Section 403.302(d)(2), Government Code.

SECTION 1.18. Section 42.253, Education Code, is amended by amending Subsection (e) and adding Subsection (e-1) to read as follows:

(e) The commissioner shall recompute the amount to which the district is entitled under Subsection (c) if a school district's tax rate is less than the limit authorized under this subsection. Except as otherwise provided by this subsection, the [The] amount to which a district is entitled under this section may not exceed the amount to which the district would be entitled at the district's tax rate for the final year of the preceding biennium, or a different tax rate provided by appropriation. The amount to which a district is entitled under Section 42.303 may not exceed the amount to which the district would be entitled based on the portion of the district's tax rate for the final year of the preceding biennium that meets the requirements of Sections 42.303(b)(1) and (2). The commissioner shall recompute the amount to which a district is entitled to the extent necessary under this section. The commissioner shall approve warrants to the school in the amount that results from the new computation. An amount equal to the difference between the initial allocation and the amount of the warrants shall be transferred to a special account in the foundation school fund known as the reserve account.

(e-1) For the 1999-2000 and 2000-2001 school years, the commissioner shall recompute the limit authorized under Subsection (e) for each school district to be a rate that would entitle the district to an amount of state and local funds per weighted student in the current year, using a guaranteed level of state and local funds per cent of tax effort under Section 42.302 of \$23.10, equal to the amount of state and local funds to which the district would have been entitled under this chapter for the current school year if there had been no change in law. For purposes of this subsection, the commissioner shall base the determination of a district's entitlement under prior law on the district's maximum tax rate for the 1999-2000 school year under Subsection (e) and the funding elements for this chapter as it existed on May 31, 1999. A determination of the commissioner under this subsection is final and may not be appealed. This subsection expires September 1, 2001.

SECTION 1.19. Subsection (a), Section 42.302, Education Code, is amended to read as follows:

(a) Each school district is guaranteed a specified amount per weighted student in state and local funds for each cent of tax effort over that required for the district's local fund assignment up to the maximum level specified in this subchapter. The amount of state support, subject only to the maximum amount under Section 42.303, is determined by the formula:

$$\text{GYA} = (\text{GL} \times \text{WADA} \times \text{DTR} \times 100) - \text{LR}$$

where:

"GYA" is the guaranteed yield amount of state funds to be allocated to the district;

"GL" is the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort, which is \$24.75 [~~\$24~~] or a greater amount for any year provided by appropriation;

"WADA" is the number of students in weighted average daily attendance, which is calculated by dividing the sum of the school district's allotments under Subchapters B and C, less any allotment to the district for transportation, any allotment under Section 42.158 or 42.159, and 50 percent of the adjustment under Section 42.102, by the basic allotment for the applicable year;

"DTR" is the district enrichment and facilities tax rate of the school district, which is determined by subtracting the amounts specified by Subsection (b) from the total amount of taxes collected by the school district for the applicable school year and dividing the difference by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100; and

"LR" is the local revenue, which is determined by multiplying "DTR" by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521, divided by 100.

SECTION 1.20. Section 42.303, Education Code, is amended to read as follows:

Sec. 42.303. LIMITATION ON ENRICHMENT AND FACILITIES TAX RATE. (a) Except as otherwise provided by this section, the [The] district enrichment and facilities tax rate ("DTR") under Section 42.302 may not exceed \$0.64 per \$100 of valuation, or a greater amount for any year provided by appropriation.

(b) A district may receive state assistance under this subchapter based on taxes imposed to pay the principal of and interest on bonds for which taxes to pay the principal and interest were first levied in a school year before the 1997-1998 school year, or on bonds issued to refund such bonds, if:

(1) the district's total tax rate exceeds a rate equal to the sum of the local fund assignment rate under Section 42.252 and the rate prescribed by Subsection (a); and

(2) all or part of the excess described by Subdivision (1) is attributable to taxes imposed to pay the principal of and interest on bonds described by this subsection.

(c) A district may not receive state assistance for any portion of a tax rate that exceeds the limit prescribed by Subsection (a) that is attributable to maintenance and operations taxes.

(d) The tax rate for which a district may receive state assistance as provided by Subsection (b) may not exceed the rate that would be necessary for the current year, using state funds under Section 42.302, to make payments of principal and interest on the bonds described by Subsection (b) for which the tax is pledged.

(e) For purposes of this section:

(1) a district's total tax rate is determined by subtracting the amounts specified by Subsection (f) from the total amount of taxes collected by the school district for the applicable school year and dividing the difference by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, under Section 42.2521 divided by 100; and

(2) in place of the guaranteed level of state and local funds ("GL") provided under Section 42.302, the guaranteed level of state and local funds per weighted student per cent of tax effort is \$23.10, or a greater amount for any year provided by appropriation.

(f) In computing the total tax rate of a school district, the total amount of taxes collected by the school district does not include the amount of:

(1) taxes collected to pay the local share of the cost of an instructional facility for which the district receives state assistance under Chapter 46; or

(2) taxes paid into a tax increment fund under Chapter 311, Tax Code.

SECTION 1.21. Subsection (a), Section 46.003, Education Code, is amended to read as follows:

(a) For each year, except as provided by Sections 46.005 and 46.006, a school district is guaranteed a specified amount per student in state and local funds for each cent of tax effort, up to the maximum rate under Subsection (b), to pay the principal of and interest on eligible bonds issued to construct, acquire, renovate, or improve an instructional facility. The amount of state support is determined by the formula:

$$\text{FYA} = (\text{FYL} \times \text{ADA} \times \text{BTR} \times 100) - (\text{BTR} \times (\text{DPV}/100))$$

where:

"FYA" is the guaranteed facilities yield amount of state funds allocated to the district for the year;

"FYL" is the dollar amount guaranteed level of state and local funds per student per cent of tax effort, which is \$33 [~~\$28~~] or a greater amount for any year provided by appropriation;

"ADA" is the number of students in average daily attendance, as determined under Section 42.005, in the district;

"BTR" is the district's bond tax rate for the current year, which is determined by dividing the amount of taxes budgeted to be collected by the district for payment of eligible bonds by the quotient of the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, Section 42.2521, divided by 100; and

"DPV" is the district's taxable value of property as determined under Subchapter M, Chapter 403, Government Code, or, if applicable, Section 42.2521.

SECTION 1.22. Sections 21.401 and 21.402, Education Code, are amended to read as follows:

Sec. 21.401. MINIMUM SERVICE REQUIRED. (a) A contract between a school district and an educator must be for a minimum of 10 months' service.

(a-4) For the 1998-1999 school year, an educator employed under a 10-month contract must provide a minimum of 187 days of service. This subsection expires September 1, 1999.

(b) An educator employed under a 10-month contract must provide a minimum [number] of 187 days of service [~~as determined by the following formula:~~

$$[MDS = 185 + (0.33 \times (R1 - R2) / (R2 / 185))$$

[where:

["MDS" is the minimum number of days of service;

["R1" is equal to FSP/ADA as determined under Section 21.402 for the fiscal year; and

["R2" is equal to FSP/ADA as determined under Section 21.402 for the 1996-1997 school year].

[(b-1) Subsection (b) applies beginning with the 1999-2000 school year. This subsection expires January 1, 2000.]

(c) [The result of the formula prescribed by Subsection (b) shall be rounded to the nearest whole number.

[(d)] The commissioner, as provided by Section 25.081(b), may reduce the number of days of service required by this section. A reduction by the commissioner does not reduce an educator's salary.

Sec. 21.402. MINIMUM SALARY SCHEDULE FOR CERTAIN PROFESSIONAL STAFF [~~CLASSROOM TEACHERS AND FULL-TIME LIBRARIANS~~]. (a) Except as provided by Subsection (d), [~~or~~] (e), or (f), a school district must pay each classroom teacher, [~~or~~] full-time librarian, full-time counselor, or full-time school nurse not less than the minimum monthly salary, based on the employee's level of experience, determined by the following formula:

$$MS = SF \times \underline{FS} \text{ [(FSP/ADA)]}$$

where:

"MS" is the minimum monthly salary;

"SF" is the applicable salary factor specified by Subsection (c); and

"FS" is the amount, as determined by the commissioner under Subsection (b), of state and local funds per weighted student available to a district eligible to receive state assistance under Section 42.302 with an enrichment and facilities tax rate, as defined by Section 42.302, equal to the maximum rate authorized under Section 42.303(a) ["FSP" is the amount appropriated in the General Appropriations Act for the fiscal year for the Foundation School Program, as determined by the commissioner as provided by Subsection (b); and

["ADA" is the total ~~estimated average daily attendance~~, as defined by Section 42.005, used for purposes of the General Appropriations Act for the fiscal year].

(b) Not later than June 1 of each year, the commissioner shall determine the amount of state and local funds per weighted student available, for purposes of Subsection (a), to a district described by that subsection for the following school year [appropriated for purposes of Chapter 42 for the state fiscal year beginning September 1. The commissioner shall exclude from the determination:

[(1) amounts designated solely for use in connection with school facilities or for payment of principal of and interest on bonds; and

[(2) local funds received under Subchapter D, Chapter 41].

(c) The salary factors per step are as follows:

Years Experience	0	1	2	3	4
Salary Factor	<u>.5615</u>	<u>.5748</u>	<u>.5882</u>	<u>.6014</u>	<u>.6295</u>
	[.8470]	[.8699]	[.8928]	[.9156]	[.9639]

Years Experience	5	6	7	8	9
Salary Factor	<u>.6575</u>	<u>.6856</u>	<u>.7117</u>	<u>.7362</u>	<u>.7596</u>
	[ <del>1.0122</del> ]	[ <del>1.0605</del> ]	[ <del>1.1054</del> ]	[ <del>1.1477</del> ]	[ <del>1.1879</del> ]
Years Experience	10	11	12	13	14
Salary Factor	<u>.7815</u>	<u>.8024</u>	<u>.8221</u>	<u>.8406</u>	<u>.8583</u>
	[ <del>1.2256</del> ]	[ <del>1.2616</del> ]	[ <del>1.2955</del> ]	[ <del>1.3273</del> ]	[ <del>1.3578</del> ]
Years Experience	15	16	17	18	19
Salary Factor	<u>.8748</u>	<u>.8905</u>	<u>.9053</u>	<u>.9193</u>	<u>.9326</u>
	[ <del>1.3862</del> ]	[ <del>1.4133</del> ]	[ <del>1.4387</del> ]	[ <del>1.4628</del> ]	[ <del>1.4857</del> ]
Years Experience	20 and over				
Salary Factor	<u>.9451</u>				
	[ <del>1.5073</del> ]				

(c-1) Notwithstanding Subsection (a), for the 1999-2000 school year, a classroom teacher, full-time librarian, full-time counselor, or full-time nurse is entitled to a monthly salary that is at least equal to:

(1) the monthly salary the employee would have received for the 1999-2000 school year under the district's salary schedule for the 1998-1999 school year, if that schedule had been in effect for the 1999-2000 school year, including any local supplement and any money representing a career ladder supplement the employee would have received in the 1999-2000 school year; and

(2) \$300.

(c-2) Subsection (c-1) and this subsection expire September 1, 2000.

(d) A teacher, librarian, counselor, or nurse employed by a school district in the 1999-2000 school year is, as long as the employee is employed by the same district, entitled to a monthly salary that is at least equal to the sum of:

(1) the monthly salary the employee received for the 1999-2000 school year, including any local supplement and any money representing a career ladder supplement the employee received in that year; and

(2) the difference, determined using the schedule under this section, between the monthly salary for the current school year for the salary step at which the employee is placed for that year and the monthly salary for the 1999-2000 school year for the salary step at which the employee was placed for that year.

(e) If the minimum monthly salary determined under Subsection (a) for a particular level of experience is less than the minimum monthly salary for that level of experience in the preceding year, the minimum monthly salary is the minimum monthly salary for the preceding year.

(f) [(e)] Notwithstanding Subsection (a), a teacher or librarian who received a career ladder supplement on August 31, 1993, is entitled to at least the same gross monthly salary the teacher or librarian received for the 1994-1995 school year as long as the teacher or librarian is employed by the same district.

(g) [(f)] In this section, "gross monthly salary" must include the amount a teacher or librarian received that represented a career ladder salary supplement under Section 16.057, as that section existed January 1, 1993.

SECTION 1.23. Subsections (a) and (c), Section 21.403, Education Code, are amended to read as follows:

(a) A teacher, ~~or~~ librarian, counselor, or nurse shall advance one step on the minimum salary schedule under Section 21.402 for each year of experience as a teacher, ~~or~~ librarian, counselor, or nurse until step 20 is reached.

(c) The commissioner shall adopt rules for determining the experience for which a teacher, ~~[or] librarian, counselor, or nurse~~ is to be given credit in placing the teacher, ~~[or] librarian, counselor, or nurse~~ on the minimum salary schedule. A district shall credit the teacher, ~~[or] librarian, counselor, or nurse~~ for each year of experience without regard to whether the years are consecutive.

SECTION 1.24. Section 25.039(b), Education Code, is amended to read as follows:

(b) The school district in which the students reside shall pay tuition to any district with which it has a contract under this section for each of its students attending school in that district at a grade level for which the district has contracted. The amount of the tuition paid may not exceed the lesser of the amount provided for by Section 25.038 or an amount specified by commissioner rule ~~[if the board of trustees of the district in which the students reside finds the excess payment to be in the best interest of the district's educational program].~~

SECTION 1.25. Subsection (b), Section 30.102, Education Code, is amended to read as follows:

(b) A classroom teacher, ~~[or] full-time librarian, full-time counselor, or full-time school nurse~~ employed by the commission is entitled to receive as a minimum salary the monthly salary ~~[rate]~~ specified by Section 21.402. A classroom teacher, ~~[or] full-time librarian, full-time counselor, or full-time nurse~~ may be paid, from funds appropriated to the commission, a salary in excess of the minimum specified by that section, but the salary may not exceed the rate of pay for a similar position in the public schools of an adjacent school district.

SECTION 1.26. Subsections (a) and (c), Section 45.104, Education Code, are amended to read as follows:

(a) The board of trustees of any school district may pledge its delinquent taxes levied for maintenance purposes for specific past, current, and future school years as security for a loan, and may evidence any such loan with negotiable notes, and the delinquent taxes pledged shall be applied against the principal and interest of the loan ~~[as they are collected]~~. Negotiable notes issued under this subsection must mature in not more than 20 years from their date.

(c) Funds secured through loans secured by delinquent taxes may be employed for any legal maintenance expenditure or purpose of the school district, including all costs incurred in connection with:

(1) environmental cleanup and asbestos removal programs implemented by school districts; or

(2) maintenance, repair, rehabilitation, or replacement of heating, air conditioning, water, sanitation, roofing, flooring, electric, or other building systems of existing school properties.

SECTION 1.27. Subsections (a), (b), and (d), Section 45.108, Education Code, are amended to read as follows:

(a) Independent or consolidated school districts may borrow money for the purpose of paying maintenance expenses and may evidence those loans with negotiable notes, except that the loans may not at any time exceed 75 percent of the previous year's income. The notes may be payable from and secured by a lien on and pledge of any available funds of the district, including proceeds of a maintenance tax. The term "maintenance expenses" or "maintenance expenditures" as used in this section means any lawful expenditure of the school district other than payment of



principal of and interest on bonds. The term includes all costs incurred in connection with environmental cleanup and asbestos cleanup and removal programs implemented by school districts or in connection with the maintenance, repair, rehabilitation, or replacement of heating, air conditioning, water, sanitation, roofing, flooring, electric, or other building systems of existing school properties. Notes issued pursuant to this section [an environmental cleanup and asbestos cleanup and removal program] may be issued to mature in not more than 20 [15] years from their date. Notes issued for a term longer than one year must be treated as "debt" as defined in Section 26.012(7), Tax Code.

(b) Notes for a term of less than one year may be issued under this section only after a budget has been adopted for the current school year.

(d) A note issued under this section for a term of less than one year may contain a certification that it is issued pursuant to and in compliance with this section and pursuant to a resolution adopted by the board of trustees. The certification is sufficient evidence that the note is a valid obligation of the district.

SECTION 1.28. Section 403.302, Government Code, as amended by S.B. No. 1368, Acts of the 76th Legislature, Regular Session, 1999, is amended by amending Subsections (d) and (h) and adding Subsection (j) to read as follows:

(d) For the purposes of this section, "taxable value" means the market value of all taxable property less:

(1) the total dollar amount of any residence homestead exemptions lawfully granted under Section 11.13(b) or (c), Tax Code, in the year that is the subject of the study for each school district;

(2) one-half of the total dollar amount of any residence homestead exemptions granted under Section 11.13(n), Tax Code, in the year that is the subject of the study for each school district;

(3) [~~2~~] the total dollar amount of any exemptions granted before May 31, 1993, within a reinvestment zone under agreements authorized by Chapter 312, Tax Code;

(4) [~~3~~] the total dollar amount of any captured appraised value of property that is located in a reinvestment zone on August 31, 1999, generates a tax increment paid into a tax increment fund, and is eligible for tax increment financing under Chapter 311, Tax Code, under a reinvestment zone financing plan approved under Section 311.011(d), Tax Code, before September 1, 1999;

(5) [~~4~~] the total dollar amount of any exemptions granted under Section 11.251, Tax Code;

(6) [~~5~~] the difference between the comptroller's estimate of the market value and the productivity value of land that qualifies for appraisal on the basis of its productive capacity, except that the productivity value estimated by the comptroller may not exceed the fair market value of the land;

(7) [~~6~~] the portion of the appraised value of residence homesteads of the elderly on which school district taxes are not imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law;

(8) [~~7~~] a portion of the market value of property not otherwise fully taxable by the district at market value because of action required by statute or the constitution of this state that, if the tax rate adopted by the district is applied to it, produces an amount equal to the difference between the tax that the district would have imposed on

the property if the property were fully taxable at market value and the tax that the district is actually authorized to impose on the property, if this subsection does not otherwise require that portion to be deducted;

(9) [(8)] the market value of all tangible personal property, other than manufactured homes, owned by a family or individual and not held or used for the production of income;

(10) [(9)] the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.06, Tax Code;

(11) [(10)] the portion of the appraised value of property the collection of delinquent taxes on which is deferred under Section 33.065, Tax Code; and

(12) [(11)] the amount by which the market value of a residence homestead to which Section 23.23, Tax Code, applies exceeds the appraised value of that property as calculated under that section.

(h) For purposes of Section [Sections 41.0011 and] 42.2511, Education Code, [for the 1996 and 1997 tax years,] the comptroller shall certify to the commissioner of education:

(1) a final value for each school district computed on a residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, of \$5,000; and

(2) a final value for each school district computed on:

(A) a residence homestead exemption under Section 1-b(c), Article VIII, Texas Constitution, of \$15,000; and

(B) the effect of the additional limitation on tax increases under Section 1-b(d), Article VIII, Texas Constitution, as proposed by H.J.R. No. 4, 75th Legislature, Regular Session, 1997.

(j) For purposes of Section 42.2522, Education Code, the comptroller shall certify to the commissioner of education:

(1) a final value for each school district computed without any deduction for residence homestead exemptions granted under Section 11.13(n), Tax Code; and

(2) a final value for each school district computed after deducting one-half the total dollar amount of residence homestead exemptions granted under Section 11.13(n), Tax Code.

SECTION 1.29. Subdivision (8), Section 271.003, Local Government Code, is amended to read as follows:

(8) "Personal property" includes appliances, equipment, facilities, and furnishings, or an interest in personal property, whether movable or fixed, considered by the governing body of the governmental agency to be necessary, useful, or appropriate to one or more purposes of the governmental agency. The term includes all materials and labor incident to the installation of that personal property. The term does not include real property.

SECTION 1.30. Section 271.005, Local Government Code, is amended by adding Subsection (b) to read as follows:

(b) The governing body of a governmental agency may contract under this section for materials and labor incident to the installation of personal property.

SECTION 1.31. Subsection (b), Section 271.007, Local Government Code, is amended to read as follows:

(b) After the contract has been approved and registered as provided by this section, the contract is valid and is incontestable for any cause. The legal obligation of the lessor, vendor, or supplier of personal property or of the person installing

personal property to the governmental agency is not diminished in any respect by the approval and registration of the contract.

SECTION 1.32. Section 26.08, Tax Code, is amended by amending Subsection (i) and adding Subsections (j)-(n) to read as follows:

(i) For purposes of this section, the rollback tax rate of a school district is the sum of:

(1) the tax rate that, applied to the current total value for the district, would impose taxes in an amount that, when added to state funds that would be distributed to the district under Chapter 42, Education Code, for the school year beginning in the current tax year using that tax rate, would provide the same amount of state funds distributed under Chapter 42 and maintenance and operations taxes of the district per student in weighted average daily attendance for that school year that would have been [was] available to the district in the preceding year if the funding elements for Chapters 41 and 42, Education Code, for the current year had been in effect for the preceding year;

(2) the rate of \$0.08 per \$100 of taxable value; and

(3) the district's current debt rate.

(j) For purposes of Subsection (i), the amount of state funds that would have been available to a school district in the preceding year is computed using the maximum tax rate for the current year under Section 42.253(e), Education Code.

(k) Except as provided by Subsection (l), for purposes of this section, for the 1999 tax year, the rollback tax rate of a school district is the sum of:

(1) the tax rate that, applied to the current total value for the district, would impose maintenance and operations taxes in an amount that, when added to the amount of state funds that would be distributed to the district under Chapter 42, Education Code, for the 1999-2000 school year using that tax rate and a guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302, Education Code, of \$23.10, would provide the same amount of state funds distributed under Chapter 42 and maintenance and operations taxes of the district per student in weighted average daily attendance for the 1999-2000 school year that would have been available to the district in the 1999-2000 school year, using:

(A) the maximum tax rate for the 1999-2000 school year under Section 42.253(e), Education Code, for which state funding would be provided; and

(B) the funding elements for Chapters 41 and 42, Education Code, for the 1998-1999 school year;

(2) the rate of \$0.08 per \$100 of taxable value; and

(3) the district's current debt rate.

(l) For purposes of this section, for the 1999 tax year, the rollback tax rate of a school district that is required to take action under Chapter 41, Education Code, to reduce its wealth per student to the equalized wealth level is the sum of:

(1) the tax rate that, applied to the current total value for the district, would impose an amount of maintenance and operations taxes per student in weighted average daily attendance for the 1999-2000 school year equal to the sum of:

(A) the maintenance and operations taxes per student in weighted average daily attendance that were available to the district in the 1998-1999 school year; and

(B) one-half the amount of additional maintenance and operations taxes per student in weighted average daily attendance available to the district due to the

increase in the equalized wealth level under Section 41.002(a), Education Code, and the increase in the wealth per student that a district may have under Sections 41.002(e) and (g), Education Code, computed using the district's tax rate for the 1998-1999 school year for purposes of Chapter 41, Education Code;

(2) the rate of \$0.08 per \$100 of taxable value; and

(3) the district's current debt rate.

(m) For purposes of Subsections (j) and (k), the amount of maintenance and operations taxes and state funds available to a school district does not include amounts provided to the district in accordance with Section 41.100, 42.159(a), or 42.2512, Education Code.

(n) Subsections (j)-(m) and this subsection expire September 1, 2000.

SECTION 1.33. In placing a counselor or school nurse on the minimum salary schedule in accordance with Sections 21.402 and 21.403, Education Code, as amended by this Act, a school district shall credit the counselor or nurse for each year of experience in accordance with rules adopted by the commissioner of education, regardless of whether the experience was gained before, during, or after the 1999-2000 school year.

SECTION 1.34. (a) The Charles A. Dana Center at The University of Texas at Austin shall conduct a study of variations in known resource costs and costs of education beyond the control of a school district.

(b) Not later than November 1, 2000, the center shall make recommendations to the 77th Legislature as to methods of adjusting funding under Chapter 42, Education Code, to reflect variations in resource costs and costs of education. At least one recommended method of adjustment must be a method that would require a smaller appropriation for the state fiscal biennium beginning September 1, 2001, than the appropriation that would be required for that biennium by the cost of education adjustment under Section 42.102, Education Code, as that section existed on May 31, 1999.

(c) The Texas Education Agency and Texas A&M University shall assist the center in conducting the study and making the recommendations.

## ARTICLE 2. PROGRAM IMPROVEMENTS AND SOCIAL PROMOTION

SECTION 2.01. Subchapter E, Chapter 29, Education Code, is amended by adding Sections 29.155 and 29.156 to read as follows:

### Sec. 29.155. KINDERGARTEN AND PREKINDERGARTEN GRANTS.

(a) From amounts appropriated for the purposes of this section, the commissioner may make grants to school districts to implement or expand kindergarten and prekindergarten programs by:

(1) operating an existing half-day kindergarten or prekindergarten program on a full-day basis; or

(2) implementing a prekindergarten program at a campus that does not have a prekindergarten program.

(b) A school district may use funds received under this section to employ teachers and other personnel for a kindergarten or prekindergarten program and acquire curriculum materials or equipment, including computers, for use in kindergarten and prekindergarten programs.

(c) To be eligible for a grant under this section, a school district must apply to the commissioner in the manner and within the time prescribed by the commissioner.

(d) In awarding grants under this section, the commissioner shall give priority to districts in which the level of performance of students on the assessment instruments administered under Section 39.023 to students in grade three is substantially below the average level of performance on those assessment instruments for all school districts in the state.

(e) The commissioner may adopt rules to administer this section.

(f) Notwithstanding Section 7.056(e)(3)(I), the commissioner may waive a requirement prescribed by this subchapter to the extent necessary to implement a grant awarded under this section or Section 29.156.

Sec. 29.156. GRANTS FOR EDUCATIONAL COMPONENT OF HEAD START. (a) From funds appropriated for the purpose, the commissioner shall make grants for use in providing an educational component to federal Head Start programs or similar government-funded early childhood care and education programs.

(b) The commissioner shall adopt rules for implementation of this section, including rules prescribing eligibility criteria for receipt of a grant and for expenditure of grant funds.

SECTION 2.02. Subchapter C, Chapter 29, Education Code, is amended by adding Section 29.086 to read as follows:

Sec. 29.086. BASIC SKILLS PROGRAMS FOR HIGH SCHOOL STUDENTS.

(a) A school district may apply to the commissioner for funding of special programs for students in grade 9 who have not earned sufficient credit to advance to grade 10 and who fail to meet minimum skills levels established by the commissioner. A school district may, with the consent of a student's parent or guardian, assign a student to a program under this section. A program under this section may not exceed 210 instructional days.

(b) A program under this section must emphasize basic skills in areas of the required curriculum under Section 28.002 and must offer students the opportunity to increase credits required for high school graduation under state or school district policy. A program under this section may be provided by a school district or an entity contracting with a school district to provide the program.

(c) The commissioner shall award funds to districts in accordance with a competitive grant process developed by the commissioner. A grant may be made to a consortium of school districts. The criteria by which the commissioner awards a grant must include the quality of the proposed program and the school district's demonstrated need for the program. An approved program must include criteria that permit measurement of student progress, and the district shall:

(1) annually evaluate the progress of students in the program; and

(2) submit the results of the evaluation to the commissioner at the end of the school year.

(d) The commissioner shall establish minimum levels of student enrollment and standards of student progress required for continued funding of a program under this section. The commissioner may eliminate funding for a program in a subsequent school year if the program fails to achieve sufficient levels of student progress.

(e) The amount of a grant under this section must take into account funds distributed to the school district under Chapter 42.

(f) The commissioner may adopt rules for the administration of programs under this section.

SECTION 2.03. Subsection (b), Section 12.104, Education Code, is amended to read as follows:

- (b) An open-enrollment charter school is subject to:
- (1) a provision of this title establishing a criminal offense; and
  - (2) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:
    - (A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;
    - (B) criminal history records under Subchapter C, Chapter 22;
    - (C) reading instruments and accelerated reading instruction programs under Section 28.006;
    - (D) satisfactory performance on assessment instruments and to accelerated instruction under Section 28.0211;
    - (E) high school graduation under Section 28.025;
    - (F) [~~F~~] special education programs under Subchapter A, Chapter 29;
    - (G) [~~E~~] bilingual education under Subchapter B, Chapter 29;
    - (H) [~~F~~] prekindergarten programs under Subchapter E, Chapter 29;
    - (I) [~~G~~] extracurricular activities under Section 33.081;
    - (J) [~~H~~] health and safety under Chapter 38; and
    - (K) [~~F~~] public school accountability under Subchapters B, C, D, and G, Chapter 39.

SECTION 2.04. Subsection (d), Section 25.085, Education Code, is amended to read as follows:

- (d) Unless specifically exempted by Section 25.086, a student enrolled in a school district must attend:
- (1) an extended-year program for which the student is eligible that is provided by the district for students identified as likely not to be promoted to the next grade level or tutorial classes required by the district under Section 29.084;
  - (2) an accelerated reading instruction program to which the student is assigned under Section 28.006(g);
  - (3) an accelerated instruction program to which the student is assigned under Section 28.0211; or
  - (4) a basic skills program to which the student is assigned under Section 29.086.

SECTION 2.05. Section 28.006, Education Code, is amended by amending Subsection (d) and adding Subsections (g)-(m) to read as follows:

- (d) The superintendent of each school district shall:
- (1) report to the commissioner and the board of trustees of the district the results of the reading instruments; and
  - (2) report, in writing, to a student's parent or guardian the student's results on the reading instrument.
- (g) A school district shall notify the parent or guardian of each student in kindergarten or first or second grade who is determined, on the basis of reading instrument results, to be below grade level in reading development or comprehension. The district shall implement an accelerated reading instruction program that provides reading instruction to those students and shall determine the form, content, and timing of that program. The admission, review, and dismissal committee of a student who

participates in a district's special education program under Subchapter B, Chapter 29, and who does not perform satisfactorily on a reading instrument under this section shall determine the manner in which the student will participate in an accelerated reading instruction program under this subsection.

(h) The school district shall make a good faith effort to ensure that the notice required under this section is provided either in person or by regular mail and that the notice is clear and easy to understand and is written in English and in the parent or guardian's native language.

(i) The commissioner shall certify, not later than July 1 of each school year or as soon as practicable thereafter, whether sufficient funds have been appropriated statewide for the purposes of this section. A determination by the commissioner is final and may not be appealed. For purposes of certification, the commissioner may not consider Foundation School Program funds.

(j) No more than 15 percent of the funds certified by the commissioner under Subsection (i) may be spent on indirect costs. The commissioner shall evaluate the programs that fail to meet the standard of performance under Section 39.051(b)(7) and may implement sanctions under Subchapter G, Chapter 39. The commissioner may audit the expenditures of funds appropriated for purposes of this section. The use of the funds appropriated for purposes of this section shall be verified as part of the district audit under Section 44.008.

(k) The provisions of this section relating to parental notification of a student's results on the reading instrument and to implementation of an accelerated reading instruction program may be implemented only if the commissioner certifies that funds have been appropriated during a school year for administering the accelerated reading instruction program specified under this section.

(l) Each district shall provide the accelerated reading instruction under Subsection (g) to students in:

(1) kindergarten during the 1999-2000 school year;

(2) kindergarten and first grade during the 2000-2001 school year; and

(3) kindergarten and first and second grades beginning with the 2001-2002 school year.

(m) Subsection (l) and this subsection expire January 1, 2002.

SECTION 2.06. Subchapter B, Chapter 28, Education Code, is amended by adding Section 28.0211 to read as follows:

Sec. 28.0211. SATISFACTORY PERFORMANCE ON ASSESSMENT INSTRUMENTS REQUIRED; ACCELERATED INSTRUCTION. (a) Except as provided by Subsection (e), a student may not be promoted to:

(1) the fourth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the third grade reading assessment instrument under Section 39.023;

(2) the sixth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the fifth grade mathematics and reading assessment instruments under Section 39.023; or

(3) the ninth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the eighth grade mathematics and reading assessment instruments under Section 39.023.

(b) A school district shall provide to a student who initially fails to perform satisfactorily on an assessment instrument specified under Subsection (a) at least two additional opportunities to take the assessment instrument.

(c) Each time a student fails to perform satisfactorily on an assessment instrument specified under Subsection (a), the school district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area, including reading instruction for a student who fails to perform satisfactorily on a reading assessment instrument. After a student fails to perform satisfactorily on an assessment instrument a second time, a grade placement committee shall be established to prescribe the accelerated instruction the district shall provide to the student before the student is administered the assessment instrument the third time. The grade placement committee shall be composed of the principal or the principal's designee, the student's parent or guardian, and the teacher of the subject of an assessment instrument on which the student failed to perform satisfactorily. The district shall notify the parent or guardian of the time and place for convening the grade placement committee and the purpose of the committee. An accelerated instruction group may not have a ratio of more than 10 students for each teacher.

(d) In addition to providing accelerated instruction to a student under Subsection (c), the district shall notify the student's parent or guardian of:

(1) the student's failure to perform satisfactorily on the assessment instrument;

(2) the accelerated instruction program to which the student is assigned; and

(3) the possibility that the student might be retained at the same grade level for the next school year.

(e) A student who, after at least three attempts, fails to perform satisfactorily on an assessment instrument specified under Subsection (a) shall be retained at the same grade level for the next school year in accordance with Subsection (a). The student's parent or guardian may appeal the student's retention by submitting a request to the grade placement committee established under Subsection (c). The school district shall give the parent or guardian written notice of the opportunity to appeal. The grade placement committee may decide in favor of a student's promotion only if the committee concludes, using standards adopted by the board of trustees, that if promoted and given accelerated instruction, the student is likely to perform at grade level. A student may not be promoted on the basis of the grade placement committee's decision unless that decision is unanimous. The commissioner by rule shall establish a timeline for making the placement determination. This subsection does not create a property interest in promotion. The decision of the grade placement committee is final and may not be appealed.

(f) A school district shall provide to a student who, after three attempts, has failed to perform satisfactorily on an assessment instrument specified under Subsection (a) accelerated instruction during the next school year as prescribed by an educational plan developed for the student by the student's grade placement committee established under Subsection (c). The district shall provide that accelerated instruction regardless of whether the student has been promoted or retained. The educational plan must be designed to enable the student to perform at the appropriate grade level by the conclusion of the school year. During the school year, the student shall be monitored to ensure that the student is progressing in accordance with the plan. The district shall administer to the student the assessment instrument for the grade level in which the student is placed at the time the district regularly administers the assessment instruments for that school year.



(g) This section does not preclude the retention at a grade level, in accordance with state law or school district policy, of a student who performs satisfactorily on an assessment instrument specified under Subsection (a).

(h) In each instance under this section in which a school district is specifically required to provide notice to a parent or guardian of a student, the district shall make a good faith effort to ensure that such notice is provided either in person or by regular mail and that the notice is clear and easy to understand and is written in English or the parent or guardian's native language.

(i) The admission, review, and dismissal committee of a student who participates in a district's special education program under Subchapter B, Chapter 29, and who does not perform satisfactorily on an assessment instrument specified under Subsection (a) and administered under Section 39.023(a) or (b) shall determine:

(1) the manner in which the student will participate in an accelerated instruction program under this section; and

(2) whether the student will be promoted or retained under this section.

(j) A school district or open-enrollment charter school shall provide transportation for students required to attend accelerated programs under this chapter.

(k) The commissioner shall adopt rules as necessary to implement this section, including rules concerning when school districts shall administer assessment instruments required under this section and which administration of the assessment instruments will be used for purposes of Section 39.051.

(l) The commissioner shall issue a report to the legislature not later than December 1, 2000, that reviews the enrollment of students in accelerated instruction and the quality and availability of accelerated instruction programs, including accelerated instruction-related teacher professional development programs.

(m) The commissioner shall certify, not later than July 1 of each school year or as soon as practicable thereafter, whether sufficient funds have been appropriated statewide for the purposes of this section. A determination by the commissioner is final and may not be appealed. For purposes of certification, the commissioner may not consider Foundation School Program funds. This section may be implemented only if the commissioner certifies that sufficient funds have been appropriated during a school year for administering the accelerated instruction programs specified under this section.

(n) This section applies to the assessment instrument administered to students in:

(1) the third grade beginning with the 2002-2003 school year;

(2) the fifth grade beginning with the 2004-2005 school year; and

(3) the eighth grade beginning with the 2007-2008 school year.

(o) Subsection (n) and this subsection expire January 1, 2008.

SECTION 2.07. Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.0231 to read as follows:

Sec. 39.0231. REPORTING OF RESULTS OF CERTAIN ASSESSMENTS. The agency shall ensure that each assessment instrument administered in accordance with Section 28.0211 is scored and that the results are returned to the appropriate school district not later than 10 days after receipt of the test materials by the agency or its test contractor.

SECTION 2.08. Subsection (b), Section 39.024, Education Code, is amended to read as follows:

(b) Each school district shall offer an intensive program of instruction for students who did not perform satisfactorily on an assessment instrument administered under this subchapter. The intensive programs for students who did not perform satisfactorily on an assessment instrument under Section 39.023(a) or (c) shall be designed to enable the students to be performing at grade level at the conclusion of the next regular school term and, if applicable, to carry out the purposes of Section 28.0211. The intensive programs for students who did not perform satisfactorily on an assessment instrument under Section 39.023(b) shall be designed by each student's admission, review, and dismissal committee to enable the student to attain a standard of annual growth on the basis of the student's individualized education program and, if applicable, to carry out the purposes of Section 28.0211.

SECTION 2.09. Subsections (b) and (d), Section 39.051, Education Code, are amended to read as follows:

(b) Performance on the indicators adopted under this section shall be compared to state-established standards. The degree of change from one school year to the next in performance on each indicator adopted under this section shall also be considered. The indicators must be based on information that is disaggregated with respect to race, ethnicity, sex, and socioeconomic status and must include:

(1) the results of assessment instruments required under Sections 39.023(a) and (c), aggregated by grade level and subject area;

(2) dropout rates;

(3) student attendance rates;

(4) the percentage of graduating students who attain scores on the secondary exit-level assessment instruments required under Subchapter B that are equivalent to a passing score on the test instrument required under Section 51.306;

(5) the percentage of graduating students who meet the course requirements established for the recommended high school program by State Board of Education rule;

(6) the results of the Scholastic Assessment Test (SAT) and the American College Test;

(7) the number of students, aggregated by grade level, provided accelerated instruction under Section 28.0211(c), the results of assessments administered under that section, the number of students promoted through the grade placement committee process under Section 28.0211, the subject of the assessment instrument on which each student failed to perform satisfactorily, and the performance of those students in the school year following that promotion on the assessment instruments required under Section 39.023;

(8) the percentage of students taking end-of-course assessment instruments adopted under Section 39.023(d);

(9) ~~(8)~~ the percentage of students exempted, by exemption category, from the assessment program generally applicable under this subchapter; and

(10) ~~(9)~~ any other indicator the State Board of Education adopts.

(d) Annually, the commissioner shall define exemplary, recognized, and unacceptable performance for each academic excellence indicator included under Subsections (b)(1) through (6) and shall project the standards for each of those levels of performance for succeeding years. For the indicator under Subsection (b)(7), the commissioner shall define exemplary, recognized, and unacceptable performance based upon student performance for the period covering both the current and prior academic years.

SECTION 2.10. Subsection (b), Section 39.052, Education Code, is amended to read as follows:

(b) The report card shall include the following information where applicable:

(1) the academic excellence indicators adopted under Sections 39.051(b)(1) through ~~(9)~~ [(8)];

(2) student/teacher ratios; and

(3) administrative and instructional costs per student.

SECTION 2.11. Subsections (b) and (c), Section 39.072, Education Code, are amended to read as follows:

(b) The academic excellence indicators adopted under Sections 39.051(b)(1) through ~~(7)~~ [(6)] shall be the main consideration of the agency in the rating of the district under this section. Additional criteria in the rules may include consideration of:

(1) compliance with statutory requirements and requirements imposed by rule of the State Board of Education under specific statutory authority that relate to:

(A) reporting data through the Public Education Information Management System (PEIMS);

(B) the high school graduation requirements under Section 28.025; or

(C) an item listed in Sections 7.056(e)(3)(C)-(I) that applies to the district; and

(2) the effectiveness of the district's programs in special education based on the agency's most recent compliance review of the district and programs for special populations.

(c) The agency shall evaluate against state standards and shall report the performance of each campus in a district and each open-enrollment charter school on the basis of the campus's performance on the indicators adopted under Sections 39.051(b)(1) through ~~(7)~~ [(6)].

SECTION 2.12. Subsection (a), Section 39.073, Education Code, is amended to read as follows:

(a) The agency shall annually review the performance of each district and campus on the indicators adopted under Sections 39.051(b)(1) through ~~(7)~~ [(6)] and determine if a change in the accreditation status of the district is warranted.

SECTION 2.13. Subsection (e), Section 39.074, Education Code, is amended to read as follows:

(e) If an annual review indicates low performance on one or more of the indicators under Sections 39.051(b)(1) through ~~(7)~~ [(6)] of one or more campuses in a district, the agency may conduct an on-site evaluation of those campuses only.

SECTION 2.14. Section 39.183, Education Code, is amended to read as follows:

Sec. 39.183. REGIONAL AND DISTRICT LEVEL REPORT. The agency shall prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, the Legislative Budget Board, and the clerks of the standing committees of the senate and house of representatives with primary jurisdiction over the public school system a regional and district level report covering the preceding two school years and containing:

(1) a summary of school district compliance with the student/teacher ratios and class-size limitations prescribed by Sections 25.111 and 25.112, including the number of districts granted an exception from Section 25.112;

(2) a summary of the exemptions and waivers granted to school districts under Section 7.056 or 39.112 and a review of the effectiveness of each campus or district following deregulation; ~~and~~

(3) an evaluation of the performance of the system of regional education service centers based on the indicators adopted under Section 8.101 and client satisfaction with services provided under Subchapter B, Chapter 8; and

(4) an evaluation of accelerated instruction programs offered under Section 28.006, including an assessment of the quality of such programs and the performance of students enrolled in such programs.

#### ARTICLE 3. REPEALER; EFFECTIVE DATE; EMERGENCY

SECTION 3.01. (a) Subsection (b), Section 8.121, Subsection (c), Section 41.002, Subsection (c), Section 42.251, and Subsection (e), Section 42.252, Education Code, are repealed.

(b) Effective September 1, 2001, Section 42.102, Education Code, is repealed.

(c) Subsection (i), Section 403.302, Government Code, is repealed.

(d) Subsection (f), Section 26.08, Tax Code, is repealed.

SECTION 3.02. Except as otherwise provided by this Act, this Act takes effect September 1, 1999.

SECTION 3.03. 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.

#### Floor Amendment No. 1

Amend **CSSB 4** as follows:

(1) Between SECTIONS 1.11 and 1.12 of the bill (house committee report, page 7, between lines 12 and 13), insert the following new SECTION and renumber accordingly:

SECTION 1.12. Subsection (a), Section 42.251, Education Code, is amended to read as follows:

(a) The sum of the basic allotment under Subchapter B and the special allotments under Subchapter C, computed in accordance with this chapter, constitute the tier one allotments. The sum of the tier one allotments and[;] the guaranteed yield allotments under Subchapter F, ~~[and assistance provided under the school facilities assistance program under Subchapter H,]~~ computed in accordance with this chapter, constitute the total cost of the Foundation School Program.

(2) In SECTION 1.13 of the bill, in added Section 42.158, Education Code (house committee report, page 9, between lines 1 and 2), insert the following:

(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.

(3) In SECTION 1.13 of the bill, in added Section 42.158(e), Education Code (house committee report, page 9, line 2), strike "(e)" and substitute "(f)".

(4) In SECTION 1.13 of the bill, in added Section 42.158(f), Education Code (house committee report, page 9, line 4), strike "(f)" and substitute "(g)".

(5) In SECTION 1.15 of the bill, in added Section 42.2512(a), Education Code (house committee report, page 10, lines 13 and 14), strike "For the 1999-2000 and 2000-2001 school years, a" and substitute "A".

(6) In SECTION 1.15 of the bill, strike added Section 42.2512(a)(1), Education Code (house committee report, page 10, lines 18-21), and substitute the following:

"(1) an amount equal to the product of \$3,000 multiplied by the number of classroom teachers, full-time librarians, full-time counselors, and full-time nurses employed by the district and entitled to a minimum salary under Section 21.402; and".

(7) In SECTION 1.15 of the bill, strike added Section 42.2512(d), Education Code (house committee report, page 11, line 10).

(8) In SECTION 1.16 of the bill, in added Section 42.2514(a), Education Code (house committee report, page 12, lines 17 and 18), strike "the basic allotment under Section 42.101" and substitute "the equalized wealth level under Section 41.002, the basic allotment under Section 42.101,".

(9) In SECTION 1.16 of the bill, in added Section 42.2514(b), Education Code (house committee report, page 12, lines 25-26), strike "in Tiers 1 and 2 of the Foundation School Program" and substitute "under Chapter 41 to school districts required to take action under that chapter and available under Tiers 1 and 2 of the Foundation School Program to other school districts".

(10) In SECTION 1.17 of the bill, in added Section 42.2521(a), Education Code (house committee report, page 13, line 6), strike "Chapters 41, 46," and substitute "Chapters 41 and 46".

(11) In SECTION 1.18 of the bill, in the introductory language (house committee report, page 15, line 8), strike "Subsection (e-1)" and substitute "Subsections (e-1), (e-2), and (e-3)".

(12) In SECTION 1.18 of the bill, in added Section 42.253(e-1), Education Code (house committee report, page 16, lines 14-17) strike the last two sentences and substitute the following:

(e-2) For the 1999-2000 and 2000-2001 school years, the commissioner shall also determine the amount to which a district is entitled as a result of Section 42.303, which may not exceed the amount to which the district would be entitled based on the portion of the district's tax rate that meets the requirements of Sections 42.303(b)(1) and (2) after the commissioner has recomputed the limit under Subsection (e-1).

(e-3) A determination of the commissioner under Subsection (e-1) or (e-2) is final and may not be appealed. Subsections (e-1) and (e-2) and this subsection expire September 1, 2001.

(13) In SECTION 1.19 of the bill, in amended Section 42.302(a), Education Code (house committee report, page 17, line 10), strike "42.158 or 42.159," and substitute "42.158,".

(14) In SECTION 1.20 of the bill, in added Section 42.303(e), Education Code (house committee report, page 19, line 4), following "42.2521", insert a comma.

(15) In SECTION 1.22 of the bill, strike added Section 21.402(c-1), Education Code (house committee report, page 23, lines 15-25) and substitute the following:

(c-1) Notwithstanding Subsection (a), for the 1999-2000 and 2000-2001 school years, a classroom teacher, full-time librarian, full-time counselor, or full-time nurse is entitled to a monthly salary that is at least equal to the greater of:

(1) the sum of:

(A) the monthly salary the employee would have received for the 1999-2000 or 2000-2001 school year, as applicable under the district's salary schedule for the 1998-1999 school year, if that schedule had been in effect for the 1999-2000 or 2000-2001 school year, including any local supplement and any money representing a career ladder supplement the employee would have received in the 1999-2000 or 2000-2001 school year; and

(B) \$300; or

(2) the salary to which the employee is entitled under Subsection (a).

(16) In SECTION 1.22 of the bill, in added Section 21.402(c-2), Education Code (house committee report, page 23, line 27), strike "2000" and substitute "2001".

(17) In SECTION 1.22 of the bill, in amended Section 21.402(d), Education Code (house committee report, page 24), strike lines 1-13 and substitute the following:

(d) A classroom teacher, full-time librarian, full-time counselor, or full-time nurse employed by a school district in the 2000-2001 school year is, as long as the employee is employed by the same district, entitled to a salary that is at least equal to the salary the employee received for the 2000-2001 school year.

(18) In SECTION 1.22 of the bill, in amended Section 21.402, Education Code (house committee report, page 24, between lines 23 and 24), insert the following:

(g) The commissioner may adopt rules to govern the application of this section, including rules that:

(1) require the payment of a minimum salary under this section to a person employed in more than one capacity for which a minimum salary is provided and whose combined employment in those capacities constitutes full-time employment; and

(2) specify the credentials a person must hold to be considered a nurse under this section.

(19) In SECTION 1.22 of the bill, in amended Section 21.402(g), Education Code (house committee report, page 24, line 24), strike "(g)" and substitute "(h)".

(20) In SECTION 1.32 of the bill, strike added Section 26.08(k)(1)(B), Tax Code (house committee report, page 33, lines 14 and 15), and substitute the following:

"(B) the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302, Education Code, for the 1998-1999 school year, the basic allotment under Section 42.101, Education Code, for the 1999-2000 school year, and the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.303(e), Education Code, for the 1999-2000 school year:"

(21) In SECTION 1.32 of the bill, strike the introductory language and Subdivision (1) of added Section 26.08(l), Tax Code (house committee report, page 33, lines 18-27, through page 34, lines 1-9), and substitute the following:

"(l) For purposes of this section, for the 1999 tax year, the rollback tax rate of a school district that is required to take action under Chapter 41, Education Code, to reduce its wealth per student to the equalized wealth level is the sum of:

(1) the tax rate that, applied to the current total value for the district, would impose an amount of maintenance and operations taxes per student in weighted average daily attendance for the 1999-2000 school year equal to the amount of maintenance and operations taxes per student in weighted average daily attendance available to the district under the funding elements under Chapter 41, Education Code,

for the 1999-2000 school year, computed using the district's tax rate for the 1998-1999 school year for purposes of Chapter 41, Education Code;".

(22) In SECTION 1.32 of the bill, in added Section 26.08(m), Tax Code (house committee report, page 34, line 15), strike "~~41.100, 42.159(a), or~~".

(23) Following SECTION 1.34 of the bill (house committee report, page 35, between lines 14 and 15), insert the following new SECTION:

SECTION 1.35. (a) A portion of the amounts appropriated in Article III, H.B. No. 1, Acts of the 76th Legislature, Regular Session, 1999, to the Texas Education Agency is allocated as provided by this subsection, notwithstanding the provisions of H.B. No. 1:

(1) for the fiscal year ending August 31, 2000, \$1,700,500,000 is allocated to Strategy A.2.1.: Foundation School Program, and for the fiscal year ending August 31, 2001, \$1,797,900,000 is allocated to that strategy;

(2) for each fiscal year of the biennium ending August 31, 2001, \$100 million is allocated to Strategy B.1.1.: Instructional Excellence, for kindergarten and prekindergarten grant programs authorized by Section 29.155, Education Code, as added by this Act;

(3) for each fiscal year of the biennium ending August 31, 2001, \$7.5 million is allocated to Strategy B.1.1.: Instructional Excellence, for implementation of an educational component to Head Start, as authorized by Section 29.156, Education Code, as added by this Act; and

(4) for each fiscal year of the biennium ending August 31, 2001, \$42.5 million in each year of the biennium is allocated to Strategy B.1.1.: Instructional Excellence, for the Basic Skills Programs for High School Students, as authorized by Section 29.086, Education Code, as added by this Act.

(b) As provided by Section 42.2511, Education Code, as amended by this Act, the commissioner of education shall allocate transition aid for total revenue declines associated with the increase in the homestead exemption under Section 1-b(d), Article VIII, Texas Constitution, as proposed by H.J.R. No. 4, 75th Legislature, Regular Session, 1997, in amounts estimated to be \$45 million for each fiscal year of the biennium ending August 31, 2001.

(c) For the biennium ending August 31, 2001, the commissioner of education shall distribute amounts appropriated in Article III, H.B. No. 1, Acts of the 76th Legislature, Regular Session, 1999, to the Texas Education Agency, in Article III of that Act, for purposes of the Instructional Facilities Allotment under Chapter 46, Education Code, as follows:

(1) for the fiscal year ending August 31, 2000, the commissioner shall use \$50 million of the funds appropriated in Strategy A.2.3.: Maximizing School Facilities, to assist school districts under the provisions of Chapter 46, Education Code, to issue new debt for public school facilities, and for the fiscal year ending August 31, 2001, the commissioner shall use \$100 million for that purpose; and

(2) the commissioner shall use the remaining appropriation in Strategy A.2.3.: Maximizing School Facilities, to meet the financial obligation incurred by the state under Chapter 46, Education Code, in the biennium ending August 31, 1999.

(d) The amount appropriated under Rider 10 following the appropriation to the Texas Education Agency in Article III, H.B. No. 1, Acts of the 76th Legislature, Regular Session, 1999, is reduced from \$160 million to \$133 million, and that amount

shall be distributed by the commissioner of education in a manner consistent with the changes made by this Act in amending Section 41.002(b), Education Code, repealing Section 41.002(c), Education Code, and adding Section 42.2521, Education Code, relating to the compensation of school districts for property value decline.

(e) The amount specified in Rider 50 following the appropriation to the Texas Education Agency in Article III, H.B. No. 1, Acts of the 76th Legislature, Regular Session, 1999, as the guaranteed level per weighted student per cent of tax effort is adjusted to conform with Subchapter F, Chapter 42, Education Code, as amended by this Act.

(f) For the fiscal year ending August 31, 2001, from amounts appropriated in Article III, H.B. No. 1, Acts of the 76th Legislature, Regular Session, 1999, to the Texas Education Agency, the commissioner of education may expend an amount not to exceed \$40 million in payment of the allotment provided by Section 42.158, Education Code, as added by this Act, for new instructional facilities.

(g) The commissioner of education shall adjust the amounts specified in Rider 2 following the appropriation to the Texas Education Agency in Article III, H.B. No. 1, Acts of the 76th Legislature, Regular Session, 1999, in compliance with the changes specified by this section.

(h) The comptroller shall adjust the amount specified as attendance credit revenues in the method of finance for amounts appropriated in Article III, H.B. No. 1, Acts of the 76th Legislature, Regular Session, 1999, to the Texas Education Agency to account for applicable provisions of this Act and for updated projections of those revenues.

(i) The Legislative Budget Board shall adjust performance measure targets in the appropriations in Article III, H.B. No. 1, Acts of the 76th Legislature, Regular Session, 1999, to the Texas Education Agency to reflect the provisions of this Act.

(j) Strategy A.2.2.: Public Education, as provided in the appropriations in Article III, H.B. No. 1, Acts of the 76th Legislature, Regular Session, 1999, to the Texas Education Agency, is repealed.

(24) In SECTION 3.01(c) of the bill (house committee report, page 52, line 22), between "(c)" and "Subsection (i)", insert "Effective August 31, 1999,".

(25) Renumber the SECTIONS of the bill accordingly.

### **Floor Amendment No. 2**

Amend the Sadler Amendment No. 1 to **CSSB 4** (on page 22 of the packet) on page 7 by striking lines 19 and 20 and substituting the following: year ending August 31, 2001, the commissioner shall use \$50 million to assist school districts to issue new debt for public school facilities and \$50 million to assist school districts to make debt service payments on debt issued in the fiscal year ending August 31, 2000; and

### **Floor Amendment No. 3**

Amend **CSSB 4** in Section 1.20 of the bill, in added Section 42.303(b), Education Code (house committee report, page 18, lines 7-8), by striking "1997-1998 school year" and substitute "1999-2000 school year".

### **Floor Amendment No. 10**

Amend **CSSB 4** by substituting the following for "or Section 42.2512" on page 17, line 18, on page 34, line 15: "Section 42.2512, or Section 42.2513"



**Floor Amendment No. 11**

Amend **CSSB 4** between SECTIONS 1.20 and 1.21 of the bill (house committee report, page 19, between lines 17 and 18), by inserting the following new SECTION and renumbering the subsequent SECTIONS accordingly:

SECTION 1.21. Section 45.006, Education Code, is amended by adding Subsection (h) to read as follows:

(h) For purposes of Chapters 41 and 42, the commissioner shall reduce the taxable value of property, as determined under Subchapter M, Chapter 403, Government Code, of a district that issues bonds under Subsection (e) by the quotient of the total amount of payments made on those bonds by the district during the preceding tax year divided by the district's maintenance tax rate for that year.

**Floor Amendment No. 12**

Amend the Eiland Amendment No. 11 to **CSSB 4** (on page 73 of the packet) as follows:

(1) On line 1, strike "between SECTIONS 1.20 and 1.21 of the".

(2) Strike lines 2-13 and substitute the following:

on page 18 of the bill, line 18, between "taxes" and the period, insert "other than taxes levied for the payment of bonds issued under Section 45.006".

**Floor Amendment No. 18**

Amend **CSSB 4** as follows:

(1) On page 27, line 24, strike "for a term of less than one year".

(2) On page 27, line 27, strike "for a term of less than".

(3) On page 28, line 1, strike "one year".

**Floor Amendment No. 19**

Amend **CSSB 4** by adding the following appropriately numbered SECTION and renumbering the remaining SECTIONS of the bill accordingly:

SECTION 1. Section 271.005, Local Government Code, is amended by adding Subsections (e) and (f) to read as follows:

(e) The aggregate ad valorem tax rate of a school district levied for maintenance and operations purposes and pledged to the payment of contracts that have terms longer than one year, up to a maximum of \$0.05 per \$100 of valuation, is considered debt for purposes of Section 26.012(7), Tax Code, if, before adopting a tax rate that includes a portion of the tax rate levied for maintenance and operations purposes as a tax levied for debt purposes, the board of trustees of the district publishes a notice of the board's intention to consider a portion of the tax rate levied for maintenance and operations purposes as a tax levied for debt purposes.

(f) The notice required by Subsection (e) must:

(1) be published in a newspaper of general circulation in the district not later than the 15th day before the date set for the board meeting at which the tax rate is to be adopted; and

(2) contain a statement in the following form:

"NOTICE OF INTENTION TO TREAT SCHOOL DISTRICT  
MAINTENANCE AND OPERATIONS TAXES AS DEBT TAXES

"The board of trustees of (name of school district), in adopting a tax rate, will consider a proposal to treat maintenance and operations taxes as taxes levied for

the payment of a debt. This will have the effect of raising the district's rollback tax rate, which is the limit on the amount of a tax rate increase over the previous year's rate that the district may adopt without holding an election."

### **Floor Amendment No. 22**

Amend **CSSB 4** as follows:

(1) On page 34, line 26, (ARTICLE 1, Sec. 1.34 of the bill), after "(a)", strike "The" and substitute "In coordination with the comptroller, the".

(2) On page 35, line 12, (ARTICLE 1, Sec. 1.34 of the bill), after "The", insert "comptroller, the".

(3) On page 35, line 12, (ARTICLE 1, Sec. 1.34 of the bill), after "Agency", insert ",,".

### **Floor Amendment No. 23**

Amend **CSSB 4** as follows:

(1) Strike SECTION 1.16 of the bill, adding Section 42.2514, Education Code (house committee report, page 12, line 13, through page 13, line 2).

(2) In SECTION 1.34(b) of the bill, strike "At least one recommended method of adjustment must be a method that would require a smaller appropriation for the state fiscal biennium beginning September 1, 2001, than the appropriation that would be required for that biennium by the cost of education adjustment under Section 42.102, Education Code, as that section existed on May 31, 1999." (house committee report, page 35, lines 6-11).

(3) In SECTION 3.01 of the bill, strike Subsection (b) (house committee report, page 52, lines 20 and 21) and reletter the subsequent subsections accordingly.

(4) Renumber the SECTIONS of the bill accordingly.

### **Floor Amendment No. 25**

Amend **CSSB 4** between SECTIONS 1.31 and 1.32 of the bill (House Committee Printing, between page 31, line 27, and page 32, line 1) by inserting the following SECTION, appropriately numbered, and renumbering the subsequent SECTIONS accordingly:

SECTION \_\_\_. Chapter 5, Tax Code, is amended by adding Section 5.103 to read as follows:

Sec. 5.103. DETERMINATION OF FEASIBILITY OF AUTHORIZING APPRAISAL DISTRICTS TO CONDUCT RATIO AND SCHOOL DISTRICT PROPERTY VALUE STUDIES. (a) The comptroller shall determine the feasibility of authorizing an appraisal district instead of the comptroller to conduct the studies in the district required by Section 5.10 of this code and Section 403.302, Government Code.

(b) The comptroller shall select from appraisal districts that have agreed to conduct the studies:

(1) at least one appraisal district that appraises property with a total appraised value of more than \$40 billion;

(2) at least one appraisal district that appraises property with a total appraised value of more than \$10 billion but not more than \$40 billion; and

(3) at least one appraisal district that appraises property with a total appraised value of \$10 billion or less.

(c) In selecting appraisal districts to conduct the studies, the comptroller shall consider the appraisal district characteristics that best further the goals of the project.

(d) Each appraisal district selected by the comptroller shall conduct the studies required by Section 5.10 of this code and Section 403.302, Government Code, in the district for the 2000 tax year. The appraisal district shall conduct the studies in accordance with procedures determined by the comptroller and submit the studies to the comptroller not later than September 1, 2000.

(e) The comptroller shall also conduct the studies in each selected appraisal district as required by Section 5.10 of this code and Section 403.302, Government Code.

(f) A study conducted by an appraisal district under this section is for purposes of comparison only, is not binding on the comptroller, and may not be used for school district funding purposes.

(g) Each appraisal district conducting a study under this section shall keep a record of its costs incurred in conducting the study and report those costs to the comptroller.

(h) An appraisal district conducting a study under this section is not entitled to be reimbursed by this state for its costs incurred in conducting the study.

(i) The comptroller shall audit each study conducted by an appraisal district under this section.

(j) Not later than March 1, 2001, the comptroller shall report to the 77th Legislature on whether authorizing appraisal districts to conduct the studies required by Section 5.10 of this code and Section 403.302, Government Code, would be sufficiently cost-effective and accurate that it would be feasible to use the resulting determinations of taxable property value in each school district for school district funding purposes.

(k) This section expires March 2, 2001.

### **Floor Amendment No. 27**

Amend **CSSB 4** as follows:

- (1) On page 35, line 21, between "districts" and "to", insert "and charter schools".
- (2) On page 35, line 27, between "district" and "may", insert "and charter school".
- (3) On page 36, line 6, between "district" and "must", insert "and charter school".
- (4) On page 36, line 9, between "district" and "in", insert "and charter schools".

### **Floor Amendment No. 30**

Amend **CSSB 4** in SECTION 2.02 of the bill, in added Section 29.086(a), Education Code (House Committee Printing, page 37, line 4), immediately following "grade 9", by inserting "who are at risk of not earning sufficient credit or".

### **Floor Amendment No. 31**

Amend **CSSB 4** as follows:

- (1) Between SECTION 2.04 and SECTION 2.05 of the bill (House committee report, page 40, between lines 1 and 2), insert the following and renumber the subsequent SECTIONS of the article accordingly:

SECTION 2.05. Subchapter D, Chapter 25, Education Code, is amended by adding Sections 25.113 and 25.114 to read as follows:

Sec. 25.113. REPORT TO AGENCY CONCERNING CLASS SIZE. Each school district shall report to the agency the number of students enrolled in each class,

at the kindergarten level through grade 12, by grade level, subject, and special program, as applicable.

Sec. 25.114. NOTICE TO PARENTS CONCERNING CLASS SIZE. Each school district shall give to a parent written notice of the number of students enrolled in each class or subject in which the parent's child is enrolled as part of notice of the student's performance required under Section 28.022(a)(2).

(2) In SECTION 2.10 of the bill (House committee printing, page 49, lines 26-27), strike the introductory language and substitute the following:

SECTION 2.10. Subsections (b) and (c), Section 39.052, Education Code, are amended to read as follows:

(3) In SECTION 2.10 of the bill, in Subdivision (2), Subsection (b), Section 39.052, Education Code (House committee report, page 50, line 5), strike "student/teacher ratios" and substitute the following:

"average class size by grade level, subject, and special program [student/teacher ratios]".

(4) In SECTION 2.10 of the bill, immediately after Subsection (b), Section 39.052, Education Code (House committee report, page 50, between lines 7 and 8), insert the following:

(c) The commissioner shall adopt rules for requiring dissemination of appropriate class size and student performance portions of campus report cards annually to the parent, guardian, conservator, or other person having lawful control of each student at the campus. On written request, the school district shall provide a copy of a campus report card to any other party.

### **Amendment No. 32**

Amend Amendment No. 31 to **CSSB 4**, by striking Section 24.113 and 25.114; and by inserting "and" on line 26 between "level" and "subject", and striking "and special program"

### **Floor Amendment No. 35**

Amend **CSSB 4** in ARTICLE 2, SECTION 2.06 of the bill, at the end of proposed Subsection (b), Section 28.0211, Education Code (house committee report, page 42, line 26), by adding the following:

A school district may administer an alternate assessment instrument to a student who has failed an assessment instrument specified under Subsection (a) on the previous two opportunities. A student may be promoted if the student performs satisfactorily on an alternate assessment instrument authorized under this subsection.

### **Floor Amendment No. 36**

Amend the S. Turner Amendment to **CSSB 4** (on page 217 of the packet) as follows:

(1) On line 1 of the amendment, strike "in ARTICLE 2, SECTION 2.06 of the bill," and substitute "as follows":

(1) In SECTION 2.06 of the bill, in added Section 28.0211(a), Education Code (page 42, line 10), between "Subsection" and "(e)", insert "(b) or".

(2) Strike lines 3 and 4 of the amendment and substitute the following:

(2) In SECTION 2.06 of the bill, at the end of added Section 28.0211(b), Education Code (page 42, line 26), insert the following:

(3) On line 7 of the amendment, strike "A student" and substitute "Notwithstanding any other provision this section, a student".

(4) On line 9 of the amendment, strike "authorized".

(5) On line 9 of the amendment, between "subsection" and the period, insert "that is appropriate for the student's grade level and approved by the commissioner."

### **Floor Amendment No. 37**

Amend **CSSB 4** in SECTION 2.06 of the bill, in the last sentence of proposed Subsection (c), Section 28.0211, Education Code (House Committee Report, page 43, line 16), after "group" by inserting "administered by a school district".

### **Floor Amendment No. 39**

Amend **CSSB 4** by adding the following appropriately numbered section and renumbering subsequent sections:

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

Sec. 21.057. NOTICE TO PARENT OF CERTIFICATION STATUS. (a) For purposes of this section:

(1) "Inappropriately certified or uncertified teacher":

(A) does include:

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

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

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

(B) does not include an individual:

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

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

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

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

(v) employed under a waiver granted by the commissioner of education pursuant to Section 7.056.

(2) "Parent" includes a guardian, conservator, or other person having lawful control of a student.

(b) If a superintendent anticipates that a course will be taught by an inappropriately certified or uncertified person for 30 or more consecutive instructional days, or if in fact allows a course to be taught by an inappropriately certified or uncertified person for 30 or more consecutive instructional days, the superintendent must at that time notify in writing the parents of each student enrolled in the course.

(c) If the primary language of a parent receiving notice under this section is a language other than English, the superintendent must make a good faith effort to provide the notice in English and the parent's primary language.

(d) A superintendent providing notice under this section must retain copies of the notice on file for public inspection.

#### **Floor Amendment No. 40**

Amend **CSSB 4**, in SECTION 2.06 of the bill, by striking proposed Section 28.0211(j), Education Code (House committee report, page 46, lines 1-3), and substituting the following:

(j) A school district or open-enrollment charter school shall provide students required to attend accelerated programs under this chapter with transportation to those programs if the programs occur outside of regular school hours.

#### **Floor Amendment No. 41**

Amend **CSSB 4** as follows:

(1) In the heading of ARTICLE 2 (house committee report, page 35, line 15), strike "IMPROVEMENTS" and substitute "IMPROVEMENTS, DISCIPLINE,".

(2) Between SECTION 2.06 and SECTION 2.07 of the bill (house committee report, page 47, between lines 7 and 8), insert the following and renumber the subsequent SECTIONS of ARTICLE 2 accordingly:

SECTION 2.07. Subsection (f), Section 37.006, Education Code, is amended to read as follows:

(f) Subject to Section 37.007(e), a student who is younger than 10 years of age shall be removed from class and placed in an alternative education program under Section 37.008 if the student engages in conduct described by Section 37.007. A student who is younger than 10 years of age may not be placed in an alternative education program with any other student who is more than two years older than the student.

#### **Floor Amendment No. 43**

Amend **CSSB 4** as follows:

On page 47, between lines 7 and 8, insert new Section 2.07 of the bill to read as follows and renumber subsequent Sections of the bill appropriately:

SECTION 2.07. Section 39.023(h), Education Code, is amended to read as follows:

(h) The agency shall notify school districts, [and] campuses, and juvenile justice alternative education programs of the results of assessment instruments administered under this section at the earliest possible date determined by the State Board of Education but not later than the beginning of the subsequent school year. The agency shall send to a juvenile board that develops a juvenile justice alternative education program under Section 37.011, upon request, the results of previous performance on assessment instruments administered under this section and under Section 28.0211 for a student enrolled in the juvenile justice alternative education program.

#### **Floor Amendment No. 44**

Amend **CSSB 4** as follows:

(1) In ARTICLE 2, SECTION 2.09 of the bill, (between Subdivisions (7) and (8), in Subsection (b), Section 39.051, Education Code (house committee report, page 49, between lines 9 and 10), insert the following:

(8) for open-enrollment charter school students who have failed to perform satisfactorily on an assessment instrument required under Section 39.023(a) or (c), the numerical progress of those students on subsequent assessment instruments required under those sections, aggregated by grade level and subject area;

(2) In ARTICLE 2, SECTION 2.09 of the bill, in Subsection (b), Section 39.051, Education Code (house committee report, page 49, lines 10, 12, and 15), strike "(8)", "(9)", "(10)" and renumber as "(9)", "(10)", and "(11)", respectively.

(3) In ARTICLE 2, SECTION 2.09 of the bill, in the first sentence of Subsection (d), Section 39.051, Education Code (house committee report, page 49, line 19), after "through (6)", insert "and (8)".

(4) In ARTICLE 2, SECTION 2.10 of the bill, in Subdivision (1), Subsection (b), Section 39.052, Education Code (house committee report, page 50, line 4), strike "(9)" and substitute "(10)".

(5) In ARTICLE 2, in the introductory language of SECTION 2.12 of the bill (house committee report, page 51, line 5), strike "Subsection (a)" and substitute "Subsections (a) and (b)".

(6) In ARTICLE 2, in the introductory language of SECTION 2.12 of the bill (house committee report, page 51, line 6), strike "is" and substitute "are".

(7) In ARTICLE 2, immediately following Subsection (a), Section 39.073, Education Code (house committee report, page 51, between lines 10 and 11), insert the following:

(b) Each annual review shall include an analysis of the indicators under Sections 39.051(b)(1) through (6) and (8) to determine district and campus performance in relation to:

- (1) standards established for each indicator;
- (2) required improvement as defined under Section 39.051(c); and
- (3) comparable improvement as defined by Section 39.051(c).

#### **Floor Amendment No. 45**

Amend the Krusee Amendment No. 44 to **CSSB 4** (on page 246 of the packet), page 1 of the amendment, line 6, strike "open-enrollment charter school".

#### **Floor Amendment No. 49**

Amend **CSSB 4** by inserting appropriately numbered SECTIONS to read as follows and by renumbering SECTIONS of the bill accordingly:

SECTION \_\_\_\_ . Section 21.103, Education Code, is amended to read as follows:

Sec. 21.103. PROBATIONARY CONTRACT: TERMINATION. (a) The board of trustees of a school district may terminate the employment of a teacher employed under a probationary contract at the end of the contract period if in the board's judgment the best interests of the district will be served by terminating the employment. The board of trustees must give notice of its decision [intention] to terminate the employment to the teacher not later than the 45th day before the last day of instruction required under the contract. The board's decision is final and may not be appealed.

(b) If the board of trustees fails to give the notice of its decision [intention] to terminate the teacher's employment within the time prescribed by Subsection (a), the board must employ the probationary teacher in the same capacity under:

(1) a probationary contract for the following school year, if the teacher has been employed by the district under a probationary contract for less than three consecutive school years; or

(2) a continuing or term contract, according to district policy, if the teacher has been employed by the district under a probationary contract for three consecutive school years.

SECTION \_\_\_\_\_. Section \_\_\_\_ of this Act, amending Section 21.103, Education Code, takes effect September 1, 1999.

### Floor Amendment No. 50

Amend **CSSB 4** as follows:

(1) In SECTION 2.11 of the bill, in amended Section 39.072(b)(1)(C), Education Code (House Committee Report, page 50, lines 22-23), strike "Sections 7.056(e)(3)(C)-(I)" and substitute "Sections 7.056(f)(3)(C)-(I) [~~7.056(e)(3)(C)-(I)~~]."

(2) Add the following appropriately numbered SECTIONS to ARTICLE 2 of the bill and renumber the remaining SECTIONS of ARTICLE 2 accordingly:

SECTION 2.\_\_\_\_. Section 7.056, Education Code, is amended to read as follows:

Sec. 7.056. **WAIVERS AND EXEMPTIONS.** (a) Except as provided by Subsection (f) [~~(e)~~], a school campus or district may apply to the commissioner for a waiver of a requirement, restriction, or prohibition imposed by this code or rule of the board or commissioner.

(b) Not later than the 20th day before the date a school campus or district applies for a waiver under Subsection (a) or (h) or under Section 25.112(d), the campus or district must provide written notice to the parent of each student who will be affected by the waiver, as reasonably determined by the campus or district, that the campus or district is applying to the commissioner for a waiver. The notice must specify the requirement, restriction, or prohibition the campus or district is requesting the commissioner to waive. For purposes of this subsection, "parent" includes a guardian.

(c) A school campus or district seeking a waiver must submit a written application to the commissioner not later than the 31st day before the campus or district intends to take action requiring a waiver. The application must include:

(1) a written plan approved by the board of trustees of the district that states the achievement objectives of the campus or district and the inhibition imposed on those objectives by the requirement, restriction, or prohibition; [~~and~~]

(2) written comments from the campus- or district-level committee established under Section 11.251; and

(3) any written comments from a parent received in response to the notification provided under Subsection (b).

(d) [~~(e)~~] If the commissioner objects to an application for a waiver, the commissioner must notify the school campus or district in writing that the application is denied not later than the 30th day after the date on which the application is received. If the commissioner does not notify the school campus or district of an objection within that time, the application is considered granted.

(e) [~~(d)~~] A waiver granted under this section is effective for the period stated in the application, which may not exceed three years. A school campus or district for which a requirement, restriction, or prohibition is waived under this section for a period of three years may receive an exemption from that requirement, restriction, or



prohibition at the end of that period if the campus or district has fulfilled the achievement objectives stated in the application. The exemption remains in effect until the commissioner determines that achievement levels of the campus or district have declined.

(f) [(e)] Except as provided by Subsection (g) [(f)], a school campus or district may not receive an exemption or waiver under this section from:

- (1) a prohibition on conduct that constitutes a criminal offense;
- (2) a requirement imposed by federal law or rule, including a requirement for special education or bilingual education programs; or
- (3) a requirement, restriction, or prohibition relating to:
  - (A) essential knowledge or skills under Section 28.002 or minimum graduation requirements under Section 28.025;
  - (B) public school accountability as provided by Subchapters B, C, D, and G, Chapter 39;
  - (C) extracurricular activities under Section 33.081;
  - (D) health and safety under Chapter 38;
  - (E) purchasing under Subchapter B, Chapter 44;
  - (F) elementary school class size limits, except as provided by Section 25.112;
  - (G) removal of a disruptive student from the classroom under Subchapter A, Chapter 37;
  - (H) at-risk programs under Subchapter C, Chapter 29;
  - (I) prekindergarten programs under Subchapter E, Chapter 29;
  - (J) educator rights and benefits under Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter A, Chapter 22;
  - (K) special education programs under Subchapter A, Chapter 29; or
  - (L) bilingual education programs under Subchapter B, Chapter 29.

(g) [(f)] A school district or campus that is required to develop and implement a student achievement improvement plan under Section 39.131 may receive an exemption or waiver under this section from any law or rule other than:

- (1) a prohibition on conduct that constitutes a criminal offense;
- (2) a requirement imposed by federal law or rule;
- (3) a requirement, restriction, or prohibition imposed by state law or rule relating to:
  - (A) public school accountability as provided by Subchapters B, C, D, and G, Chapter 39; or
  - (B) educator rights and benefits under Subchapters A, C, D, E, F, G, and I, Chapter 21, or under Subchapter A, Chapter 22; or
- (4) textbook selection under Chapter 31.

(h) [(g)] In a manner consistent with waiver authority granted to the commissioner by the United States Department of Education, the commissioner may grant a waiver of a state law or rule required by federal law, including Subchapter A, B, or C, Chapter 29. Before exercising any waiver authority under this subsection, the commissioner shall notify the Legislative Budget Board and the office of budget and planning in the governor's office.

SECTION 2.\_\_\_\_. Section 26.003(a), Education Code, is amended to read as follows:

(a) A parent is entitled to:

(1) petition the board of trustees designating the school in the district that the parent's child will attend, as provided by Section 25.033;

(2) reasonable access to the school principal, or to a designated administrator with the authority to reassign a student, to request a change in the class or teacher to which the parent's child has been assigned, if the reassignment or change would not affect the assignment or reassignment of another student;

(3) request, with the expectation that the request will not be unreasonably denied:

(A) the addition of a specific academic class in the course of study of the parent's child in keeping with the required curriculum if sufficient interest is shown in the addition of the class to make it economically practical to offer the class;

(B) that the parent's child be permitted to attend a class for credit above the child's grade level, whether in the child's school or another school, unless the board or its designated representative expects that the child cannot perform satisfactorily in the class; or

(C) that the parent's child be permitted to graduate from high school earlier than the child would normally graduate, if the child completes each course required for graduation; ~~and~~

(4) have a child who graduates early as provided by Subdivision (3)(C) participate in graduation ceremonies at the time the child graduates; ~~and~~

(5) be given notice, in accordance with Section 7.056(b), concerning an application for a waiver of a requirement, restriction, or prohibition concerning public education.

SECTION 2. \_\_\_\_\_. Section 7.056, Education Code, as amended by this Article, applies to notice concerning an application for a waiver of a requirement, restriction, or prohibition concerning public education beginning with an application for the 1999-2000 school year.

### **Floor Amendment No. 51**

Amend the Madden amendment to **CSSB 4** (on page 252 of the packet) as follows:

(1) On page 1, strike lines 16-25 and substitute the following:

(b) This subsection applies only to a waiver from the commissioner relating to class size or minimum days of instruction. Not later than the 31st day after the start of the school year, if a waiver is received from the commissioner before the beginning of the school year, or not later than the 31st day after the date on which a waiver is received during a school year, a campus or district must provide written notice of the waiver to the parent of each student affected by the waiver, as reasonably determined by the campus or district. The notice must specify the requirement, restriction, or prohibition that was waived. The notice must be included in a regular mailing or other communication from the campus or district, including information sent home with students. For purposes of this subsection, "parent" includes a guardian.

(2) On page 2, strike lines 4-8 and substitute the following:  
by the requirement, restriction, or prohibition; and

(2) written comments from the campus- or district-level committee established under Section 11.251.

(3) On page 5, strike lines 18-20 and substitute the following:

(5) be given notice, in accordance with Section 7.056(b), concerning a waiver of a requirement, restriction, or prohibition concerning class size or minimum days of instruction.

(4) On page 5, strike lines 21-25 and substitute the following:

SECTION 2.\_\_\_\_. Section 7.056(b), Education Code, applies beginning with waivers granted for the 1999-2000 school year.

### **Floor Amendment No. 53**

Amend **CSSB 4** by adding the following new SECTION appropriately numbered at the end of ARTICLE 1 of the bill:

SECTION 1.\_\_\_\_. Not later than November 1, 2000, the commissioner of education shall develop a plan to address the recruitment and retention of certified classroom teachers, including proposals for incentive awards that are most effective at recruiting and retaining certified classroom teachers.

### **Floor Amendment No. 54**

Amend **CSSB 4** by adding the following new SECTION, appropriately numbered, and by renumbering the subsequent SECTIONS of the bill accordingly:

SECTION \_\_. Subchapter I, Chapter 21, Education Code, is amended by adding Section 21.410 to read as follows:

Sec. 21.410. RESTRICTING WRITTEN REPORTS. (a) The board of trustees of each school district shall adopt a policy to limit redundant requests for information and the number and length of written reports that a classroom teacher is required to prepare. Except as provided by Subsection (b), a classroom teacher may not be required to prepare a written report other than:

(1) a report of a student's grade on a particular assignment or examination;

(2) a report of a student's grades at the end of a grade reporting period;

(3) a textbook report;

(4) a unit or weekly lesson plan report that outlines, in a brief and general manner, the information to be presented during each period at the secondary level or in each subject or topic at the elementary level;

(5) an attendance report;

(6) a report required for accreditation review;

(7) any other report specifically required by law or State Board of Education rule to be prepared by a classroom teacher; or

(8) any other report directly related to the professional duties of a classroom teacher.

(b) If information is required under federal or state law, regulation, or rule and the only reasonable manner in which to collect the information is with the direct involvement of a classroom teacher, the teacher may be required to provide the information.

(c) This section does not preclude a school district from collecting essential information, in addition to information specified under Subsection (a) or (b), from a classroom teacher if:

(1) participation is entirely at the discretion of the teacher and the school district does not directly or indirectly coerce the teacher to participate; and,

(2) the decision not to participate is not held against the teacher.

#### **Floor Amendment No. 55**

Amend **CSSB 4** as follows:

Subsection (a), Section 21.451, Education Code, is amended to read as follows:

(a) The staff development provided by a school district must be conducted in accordance with minimum standards developed by the commissioner for program planning, preparation, and improvement. The staff development:

(1) must include training in technology, ~~training and training in~~ conflict resolution, and discipline strategies, including classroom management, district discipline policies, and the student code of conduct adopted under Section 37.001, and Chapter 37.

#### **Floor Amendment No. 56**

Amend **CSSB 4** by adding the following appropriately numbered SECTION to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 21.451, Education Code, is amended by adding Subsection (d) to read as follows:

(d) A school district must provide each teacher in grades one and two with training in screening students for dyslexia and related disorders. A district may use available resources from a regional education service center to provide the training. In this subsection, "dyslexia" and "related disorders" have the meanings assigned by Section 38.003(d).

#### **Floor Amendment No. 58**

Amend **CSSB 4** by adding a new section 2.15 to read as follows:

Section 2.15 Amend Texas Education Code by adding Section 22.006 to read as follows:

"Section 22.006. (a) The board of trustees of a school district may adopt a policy under which employee organizations are consulted concerning district working condition and educational matters specified by the policy.

(b) A policy the board of trustees adopts under this section:

(1) must permit a representative of an organization that represents public school employees to consult directly with the board or the board's designee concerning working conditions and educational matters specified by the policy if at least five percent of the employees in the district are members of the organization and the organization is exempt from taxation under Section 501(c)(4), (5), or (6), Internal Revenue Code.

(2) may not exclude from consultation an employee organization described by this subsection.

(c) The board of trustees may establish criteria to provide for proportional representation of the employee organizations described by Subsection (b) based on the number of employees in the district who are dues-paying members of each organization."

#### **Floor Amendment No. 59**

Amend the Brimer Amendment No. 58 to **CSSB 4** (on page 258 of the packet) as follows:

(1) In Section 22.006(b)(1), Education Code, as added by the amendment, strike "must permit" and substitute "should permit".

(2) In Section 22.006(b)(2), Education Code, as added by the amendment, strike "may not exclude" and substitute "should not exclude".

#### **Floor Amendment No. 60**

Amend **CSSB 4** by inserting an appropriately numbered section to read as follows and by renumbering subsequent sections of the bill accordingly:

SECTION \_\_. Section 22.003(b), Education Code, is amended to read as follows:

(b) In addition to all other days of leave provided by this section or by the school district, an employee of a school district who, ~~[is physically assaulted]~~ during the performance of the employee's regular duties, is physically injured as a result of physical contact or the threat of physical contact the employee regards as offensive or provocative is entitled to the number of days of leave necessary to recuperate from all physical injuries sustained as a result of the physical contact or threat ~~[assault]~~. At the request of an employee, the school district must immediately assign an employee to assault leave and, on investigation of the claim, may change the assault leave status and charge the leave against the employee's accrued personal leave or against an employee's pay if insufficient accrued personal leave is available. Days of leave taken under this subsection may not be deducted from accrued personal leave. The period provided by this subsection may not extend more than two years beyond the date of the physical contact or threat ~~[assault]~~. Notwithstanding any other law, assault leave policy benefits due to an employee shall be coordinated with temporary income benefits due from workers' compensation so that the employee's total compensation from temporary income benefits and assault leave policy benefits equals 100 percent of the employee's weekly rate of pay.

#### **Floor Amendment No. 61**

Amend **CSSB 4** by adding the following language to page 25, line 14 and renumbering accordingly:

SECTION 1.24. Section 573.061, Government Code, is amended to read as follows:

Sec. 573.061. GENERAL EXCEPTIONS. Section 573.041 does not apply to:

(7) an appointment or employment of a person by a school district that has an enrollment of less than 600 students; or

(8) an appointment or employment of a person by a school district if the person was at any previous time employed by the district for at least five cumulative years before the election or appointment of the public official to whom the person is related in a prohibited degree.

#### **Floor Amendment No. 62**

Amend the Walker Amendment No. 61 (page 96) to **CSSB 4** by striking lines 1-2 and substituting the following:

"Amend **CSSB 4** by adding the following appropriately numbered SECTION and renumbering the remaining SECTIONS of the bill appropriately:"

**Floor Amendment No. 66**

Amend **CSSB 4** by adding the following SECTIONS appropriately numbered and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_. Section 28.002(c), Education Code, is amended to read as follows:

(c) The State Board of Education, with the direct participation of educators, parents, business and industry representatives, and employers shall by rule identify the essential knowledge and skills of each subject of the foundation curriculum that all students should be able to demonstrate and that will be used in evaluating textbooks under Chapter 31 and addressed on the assessment instruments required under Subchapter B, Chapter 39. Reading must be included among the essential knowledge and skills of English language arts for grades one through eight. The reading curriculum, based on scientific research, must be grade specific and increase in depth and complexity from one school year to the next, focus on core knowledge, and include phonemic awareness and systematic, explicit phonics and spelling knowledge and skills. As a condition of accreditation, the board shall require each district to provide instruction in the essential knowledge and skills at appropriate grade levels.

SECTION \_\_. Section 31.023(a), Education Code, is amended to read as follows:

(a) For each subject and grade level, the State Board of Education shall adopt two lists of textbooks. The conforming list includes each textbook submitted for the subject and grade level that meets applicable physical specifications adopted by the State Board of Education, ~~and~~ contains material covering each element of the essential knowledge and skills of the subject and grade level as determined by the State Board of Education under Section 28.002 presented in an educationally effective manner as proven by scientific research, and is adopted under Section 31.024. To be placed on the conforming list, a reading textbook for grade one or above through grade eight must address phonemic awareness and must contain systematic, explicit phonics and spelling instruction that increases in depth and complexity from one school year to the next. The nonconforming list includes each textbook submitted for the subject and grade level that:

(1) meets applicable physical specifications adopted by the State Board of Education;

(2) contains material covering at least half, but not all, of the elements of the essential knowledge and skills of the subject and grade level presented in an educationally effective manner as proven by scientific research; ~~and~~

(3) is adopted under Section 31.024; and

(4) contains systematic, explicit phonics and spelling instruction that increases in depth and complexity from one school year to the next, in the case of a reading textbook for grade one or above through grade eight.

SECTION \_\_. Notwithstanding the textbook review and adoption requirements under Section 31.022, Education Code, or the textbook review and adoption cycle the State Board of Education adopts under that section, the board shall review and adopt reading textbooks for grades one through eight that satisfy requirements under Section 31.023, Education Code, as amended by this Act, as soon as practicable.

SECTION \_\_\_\_\_. Sections \_\_\_\_\_ and \_\_\_\_\_ above apply beginning with the 1999-2000 school year.

**Floor Amendment No. 67**

Amend **CSSB 4** by adding the following SECTION appropriately numbered and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_. Sections 28.006(a) - (c), Education Code, are amended to read as follows:

(a) The commissioner shall develop recommendations for school districts for:

- (1) administering reading instruments to diagnose student pre-reading and reading development and comprehension;
- (2) training educators in administering the reading instruments; and
- (3) applying the results of the reading instruments to the instructional program.

(b) The commissioner shall adopt a list of reading instruments that a school district may use to diagnose student pre-reading and reading development and comprehension. A district-level committee established under Subchapter F, Chapter 11, may adopt a list of reading instruments for use in the district in addition to the reading instruments on the commissioner's list. Each reading instrument adopted by the commissioner or a district-level committee must be based on scientific research concerning reading skills development, including phoneme awareness, sound-letter knowledge, and letter knowledge, and reading comprehension. A list of reading instruments adopted under this subsection must provide for diagnosing the reading development and comprehension of students participating in a program under Subchapter B, Chapter 29.

**Floor Amendment No. 68**

Amend **CSSB 4** by adding the following SECTION, appropriately numbered, and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION \_\_. Section 28.025(a), Education Code, is amended to read as follows:

(a) The State Board of Education by rule shall determine curriculum requirements for the minimum, recommended, and advanced high school programs that are consistent with the required curriculum under Section 28.002 and shall identify enrichment courses or series of courses within coherent sequences that satisfy high school academic requirements and that concurrently lead to a postsecondary curriculum. A student may graduate and receive a diploma only if the student successfully completes:

- (1) the curriculum requirements identified by the board and the exit-level assessment instrument administered under Section 39.023(c) or each end-of-course assessment instrument required to be adopted under Section 39.023(d); or
- (2) an individualized education program developed under Section 29.005.

**Floor Amendment No. 69**

Amend the Staples Amendment No. 68 to **CSSB 4** (on page 224 of the packet) on lines 10 and 11 by striking "satisfy high school academic requirements" and substituting "satisfy the high school graduation requirements".

**Floor Amendment No. 70**

Amend **CSSB 4** by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 5.001, Education Code, is amended by adding Subdivision (8) to read as follows:

(8) "Residential facility" means:

(A) a facility operated by a state agency or political subdivision, including a child placement agency, that provides 24-hour custody or care of a person 22 years of age or younger, if the person resides in the facility for detention, treatment, foster care, or any noneducational purpose; and

(B) any person or entity that contracts with or is funded, licensed, certified, or regulated by a state agency or political subdivision to provide custody or care for a person under Paragraph (A).

SECTION \_\_\_. Section 25.001(b), Education Code, is amended to read as follows:

(b) The board of trustees of a school district or its designee shall admit into the public schools of the district free of tuition a person who is over five and younger than 21 years of age on the first day of September of the school year in which admission is sought if:

(1) the person and either parent of the person reside in the school district;

(2) the person does not reside in the school district but a parent of the person resides in the school district and that parent is a joint managing conservator or the sole managing conservator or possessory conservator of the person;

(3) the person and the person's guardian or other person having lawful control of the person under a court order reside within the school district;

(4) the person has established a separate residence under Subsection (d);

(5) the person is homeless, as defined by 42 U.S.C. Section 11302, regardless of the residence of the person, of either parent of the person, or of the person's guardian or other person having lawful control of the person;

(6) the person is a foreign exchange student placed with a host family that resides in the school district by a nationally recognized foreign exchange program, unless the school district has applied for and been granted a waiver by the commissioner under Subsection (e);

(7) the person resides at a residential facility located in the district; or

(8) [(7)] the person resides in the school district and is 18 years of age or older or the person's disabilities of minority have been removed.

SECTION \_\_\_. Section 25.003(a), Education Code, is amended to read as follows:

(a) Notwithstanding any other provision of this code, a school district shall charge tuition for a child who resides at a residential facility [child-care institution] and whose maintenance expenses are paid in whole or in part by another state or the United States [may not be admitted to a public school unless the child-care institution pays tuition for the child equal to the actual cost of educating a child enrolled in a similar educational program in the district].

SECTION \_\_\_. Section 29.012, Education Code, is amended to read as follows:

Sec. 29.012. RESIDENTIAL [INTERMEDIATE CARE] FACILITIES.

(a) Except as provided by Subsection (b)(2), not later than the third day after the date a person 22 years of age or younger is placed in a residential facility, the residential facility shall:

(1) if the person is three years of age or older, notify the school district in which the facility is located, unless the facility is an open-enrollment charter school; or



(2) if the person is younger than three years of age, notify a local early intervention program in the area in which the facility is located.

(b) An agency or political subdivision that funds, licenses, certifies, contracts with, or regulates a residential facility must:

(1) require the facility to comply with Subsection (a) as a condition of the funding, licensing, certification, or contracting; or

(2) if the agency or political subdivision places a person in a residential facility, provide the notice under Subsection (a) for that person.

(c) For purposes of enrollment in a school, a person who resides in a residential facility is considered a resident of the school district or geographical area served by the open-enrollment charter school in which the facility is located.

(d) The Texas Education Agency, ~~and~~ the Texas Department of Mental Health and Mental Retardation, the Texas Department of Human Services, the Texas Department of Health, the Department of Protective and Regulatory Services, the Interagency Council on Early Childhood Intervention, the Texas Commission on Alcohol and Drug Abuse, the Texas Juvenile Probation Commission, and the Texas Youth Commission by a cooperative effort shall develop and by rule adopt a memorandum of understanding. The memorandum must:

(1) establish ~~that establishes~~ the respective responsibilities of school districts and of residential ~~intermediate care~~ facilities for ~~mentally retarded persons for~~ the provision of a free, appropriate public education, as required by the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) and its subsequent amendments, including each requirement of 20 U.S.C. Section 1412(a)(12), ~~classrooms and educationally related therapy~~ for children with disabilities ~~students~~ who reside in those facilities;

(2) coordinate regulatory and planning functions of the parties to the memorandum;

(3) establish criteria for determining when a public school can provide educational services and when a residential facility must provide the services;

(4) provide for appropriate educational space when a residential facility must provide educational services;

(5) establish measures designed to ensure the safety of students and teachers; and

(6) provide for binding arbitration consistent with Chapter 2009, Government Code, and Section 154.027, Civil Practice and Remedies Code.

~~[(b) The division of responsibilities under the memorandum of understanding must be consistent with federal law relating to the state medical assistance program.]~~

### **Floor Amendment No. 72**

Amend **CSSB 4** by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 7.102(c)(4), Education Code, is amended to read as follows:

(4) The board shall establish curriculum and graduation requirements as required by Chapter 28.

SECTION \_\_\_\_. Section 8.051(d), Education Code, is amended to read as follows:

(d) Each regional education service center shall maintain core services for purchase by school districts and campuses. The core services are:

(1) training and assistance in teaching each subject area assessed under Section 39.023 using methods based on scientific research;

(2) training and assistance in providing each program that qualifies for a funding allotment under Section 42.151, 42.152, 42.153, or 42.156;

(3) assistance specifically designed for a school district rated academically unacceptable under Section 39.072(a) or a campus whose performance is considered unacceptable based on the indicators adopted under Section 39.051;

(4) training and assistance to teachers, administrators, members of district boards of trustees, and members of site-based decision-making committees; and

(5) assistance in complying with state laws and rules.

SECTION \_\_. Section 11.201(d), Education Code, is amended to read as follows:

(d) The duties of the superintendent include:

(1) assuming administrative responsibility and leadership for the planning, operation, supervision, and evaluation of:

(A) the education programs, services, and facilities of the district;

(B) [~~and for~~] the annual performance appraisal of the district's staff; and

(C) curricula based on scientific research for elementary reading, spelling, and mathematics;

(2) assuming administrative authority and responsibility for the assignment and evaluation of all personnel of the district other than the superintendent;

(3) making recommendations regarding the selection of personnel of the district other than the superintendent, as provided by Section 11.163;

(4) initiating the termination or suspension of an employee or the nonrenewal of an employee's term contract;

(5) managing the day-to-day operations of the district as its administrative manager;

(6) preparing and submitting to the board of trustees a proposed budget as provided by Section 44.002;

(7) preparing recommendations for policies to be adopted by the board of trustees and overseeing the implementation of adopted policies;

(8) developing or causing to be developed appropriate administrative regulations to implement policies established by the board of trustees;

(9) providing leadership for the attainment of student performance in the district based on the indicators adopted under Section 39.051 and other indicators adopted by the State Board of Education or the district's board of trustees;

(10) organizing the district's central administration; and

(11) performing any other duties assigned by action of the board of trustees.

SECTION \_\_. Section 11.202(b), Education Code, is amended to read as follows:

(b) Each principal shall:

(1) except as provided by Subsection (d), approve all teacher and staff appointments for that principal's campus from a pool of applicants selected by the district or of applicants who meet the hiring requirements established by the district, based on criteria developed by the principal after informal consultation with the faculty;

(2) set specific education objectives for the principal's campus, including for elementary school principals the implementation of curricula based on scientific research for reading, spelling, and mathematics, through the planning process under Section 11.253;

- (3) develop budgets for the principal's campus;
- (4) assume the administrative responsibility and instructional leadership, under the supervision of the superintendent, for discipline at the campus;
- (5) assign, evaluate, and promote personnel assigned to the campus;
- (6) recommend to the superintendent the termination or suspension of an employee assigned to the campus or the nonrenewal of the term contract of an employee assigned to the campus; and
- (7) perform other duties assigned by the superintendent pursuant to the policy of the board of trustees.

SECTION \_\_. Section 11.252(a), Education Code, is amended to read as follows:

(a) Each school district shall have a district improvement plan that is developed, evaluated, and revised annually, in accordance with district policy, by the superintendent with the assistance of the district-level committee established under Section 11.251. The purpose of the district improvement plan is to guide district and campus staff in the improvement of student performance for all student groups in order to attain state standards in respect to the academic excellence indicators adopted under Section 39.051. The district improvement plan must include provisions for:

(1) a comprehensive needs assessment addressing district student performance on the academic excellence indicators, and other appropriate measures of performance, that are disaggregated by all student groups served by the district, including categories of ethnicity, socioeconomic status, sex, and populations served by special programs;

(2) measurable district performance objectives for all appropriate academic excellence indicators for all student populations, appropriate objectives for special needs populations, and other measures of student performance that may be identified through the comprehensive needs assessment;

(3) strategies for improvement of student performance that include:

(A) instructional methods, including methods based on scientific research for reading, spelling, and mathematics, for addressing the needs of student groups not achieving their full potential;

(B) methods for addressing the needs of students for special programs, such as suicide prevention, conflict resolution, violence prevention, research-based reading programs, or dyslexia treatment programs;

(C) dropout reduction;

(D) integration of technology in instructional and administrative programs;

(E) discipline management;

(F) staff development, including where appropriate, training in the use of curricula based on scientific research for reading, spelling, and mathematics, for professional staff of the district;

(G) career education to assist students in developing the knowledge, skills, and competencies necessary for a broad range of career opportunities; and

(H) accelerated education;

(4) resources needed to implement identified strategies;

(5) staff responsible for ensuring the accomplishment of each strategy;

(6) timelines for ongoing monitoring of the implementation of each improvement strategy; and

(7) formative evaluation criteria for determining periodically whether strategies are resulting in intended improvement of student performance.

SECTION \_\_. Section 12.013(b), Education Code, is amended to read as follows:

(b) A home-rule school district is subject to:

- (1) a provision of this title establishing a criminal offense;
- (2) a provision of this title relating to limitations on liability; and
- (3) a prohibition, restriction, or requirement, as applicable, imposed by this

title or a rule adopted under this title, relating to:

(A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

(B) educator certification under Chapter 21 and educator rights under Sections 21.407, 21.408, and 22.001;

(C) criminal history records under Subchapter C, Chapter 22;

(D) student admissions under Section 25.001;

(E) school attendance under Sections 25.085, 25.086, and 25.087;

(F) inter-district or inter-county transfers of students under Subchapter B, Chapter 25;

(G) elementary class size limits under Section 25.112, in the case of any campus in the district that is considered low-performing under Section 39.131(b);

(H) curriculum requirements under Sections 28.002(a)(1)(A) and (B);

(I) high school graduation under Section 28.025;

(J) ~~(H)~~ special education programs under Subchapter A, Chapter 29;

(K) ~~(I)~~ bilingual education under Subchapter B, Chapter 29;

(L) ~~(K)~~ prekindergarten programs under Subchapter E, Chapter 29;

(M) ~~(L)~~ safety provisions relating to the transportation of students under Sections 34.002, 34.003, 34.004, and 34.008;

(N) ~~(M)~~ computation and distribution of state aid under Chapters 31, 42, and 43;

(O) ~~(N)~~ extracurricular activities under Section 33.081;

(P) ~~(O)~~ health and safety under Chapter 38;

(Q) ~~(P)~~ public school accountability under Subchapters B, C, D, and G, Chapter 39;

(R) ~~(Q)~~ equalized wealth under Chapter 41;

(S) ~~(R)~~ a bond or other obligation or tax rate under Chapters 42, 43, and 45; and

(T) ~~(S)~~ purchasing under Chapter 44.

SECTION \_\_. Section 12.056(b), Education Code, is amended to read as follows:

(b) A campus or program for which a charter is granted under this subchapter is subject to:

- (1) a provision of this title establishing a criminal offense; and
- (2) a prohibition, restriction, or requirement, as applicable, imposed by this

title or a rule adopted under this title, relating to:

(A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

(B) criminal history records under Subchapter C, Chapter 22;

(C) curriculum requirements under Sections 28.002(a)(1)(A) and (B);

(D) high school graduation under Section 28.025;

(E) ~~(D)~~ special education programs under Subchapter A, Chapter 29;

- (F) [~~F~~] bilingual education under Subchapter B, Chapter 29;
- (G) [~~F~~] prekindergarten programs under Subchapter E, Chapter 29;
- (H) [~~G~~] extracurricular activities under Section 33.081;
- (I) [~~H~~] health and safety under Chapter 38; and
- (J) [~~H~~] public school accountability under Subchapters B, C, D, and G,

Chapter 39.

SECTION \_\_. Section 12.104(b), Education Code, is amended to read as follows:

(b) An open-enrollment charter school is subject to:

(1) a provision of this title establishing a criminal offense; and

(2) a prohibition, restriction, or requirement, as applicable, imposed by this title or a rule adopted under this title, relating to:

(A) the Public Education Information Management System (PEIMS) to the extent necessary to monitor compliance with this subchapter as determined by the commissioner;

(B) criminal history records under Subchapter C, Chapter 22;

(C) curriculum requirements under Sections 28.002(a)(1)(A) and (B);

(D) high school graduation under Section 28.025;

(E) [~~F~~] special education programs under Subchapter A, Chapter 29;

(F) [~~F~~] bilingual education under Subchapter B, Chapter 29;

(G) [~~F~~] prekindergarten programs under Subchapter E, Chapter 29;

(H) [~~G~~] extracurricular activities under Section 33.081;

(I) [~~H~~] health and safety under Chapter 38; and

(J) [~~H~~] public school accountability under Subchapters B, C, D, and G, Chapter 39.

SECTION \_\_. Section 19.004(c), Education Code, is amended to read as follows:

(c) The district shall:

(1) develop educational and vocational training programs specifically designed for persons eligible under Section 19.005, including an educational curriculum based on scientific research to teach reading, spelling, and mathematics to those persons who test at or below the sixth grade level on approved placement tests; and

(2) coordinate educational programs and services in the department with those provided by other state agencies, by political subdivisions, and by persons who provide programs and services under contract.

SECTION \_\_\_\_\_. Section 21.045, Education Code, is amended by adding Subsection (e) to read as follows:

(e) Not later than September 1, 2000, the educator preparation accreditation standards must include the requirement that elementary teachers display knowledge of educational curricula based on scientific research for teaching reading, spelling, and mathematics. This subsection expires January 1, 2001.

SECTION \_\_. Section 21.046(b), Education Code, is amended to read as follows:

(b) The qualifications for certification as a principal must be sufficiently flexible so that an outstanding teacher may qualify by substituting approved experience and professional training for part of the educational requirements. Supervised and approved on-the-job experience in addition to required internship shall be accepted in lieu of classroom hours. The qualifications must emphasize:

(1) instructional leadership;

(2) administration, supervision, and communication skills;

(3) curriculum and instruction management, including for elementary school principals knowledge of effective implementation methods for educational curricula based on scientific research for elementary reading, spelling, and mathematics;

(4) performance evaluation;

(5) organization; and

(6) fiscal management.

SECTION \_\_. Section 21.047(c), Education Code, is amended to read as follows:

(c) A center may develop and implement a comprehensive field-based educator preparation program to supplement the internship hours required in Section 21.050. This comprehensive field-based teacher program must:

(1) be designed on the basis of current research into state-of-the-art teaching practices, curriculum theory and application, evaluation of student outcomes, and the effective application of technology;

(2) for elementary teachers, emphasize the use of educational methods and curricula based on scientific research for teaching elementary reading, spelling, and mathematics; and

(3) [~~(2)~~] have rigorous internal and external evaluation procedures that focus on content, delivery systems, and teacher and student outcomes.

SECTION \_\_. Section 21.451(b), Education Code, is amended to read as follows:

(b) The staff development must be predominantly campus-based, related to achieving campus performance objectives established under Section 11.253, and developed and approved by the campus-level committee established under Section 11.251. Campus staff development may include activities that enable the campus staff to plan together to enhance existing skills, to share effective strategies, to reflect on curricular and instructional issues, to analyze student achievement results, to reflect on means of increasing student achievement, to study research, to practice new methods, to study educational methods based on scientific research, to identify students' strengths and needs, to develop meaningful programs for students, to appropriately implement site-based decision-making, and to conduct action research. The campus staff development activities may be conducted using study teams, individual research, peer coaching, workshops, seminars, conferences, or other reasonable methods that have the potential to improve student achievement.

SECTION \_\_\_\_\_. Section 28.002, Education Code, is amended by amending Subsections (a) and (i) and adding Subsection (l) to read as follows:

(a) Each school district that offers kindergarten through grade 12 shall offer, as a required curriculum:

(1) a foundation curriculum that includes:

(A) English language arts, including elementary reading using educational methods based on scientific research and morphographic spelling using educational methods based on scientific research;

(B) mathematics, including elementary mathematics using educational methods based on scientific research;

(C) science; and

(D) social studies, consisting of Texas, United States, and world history, government, and geography; and

(2) an enrichment curriculum that includes:

(A) to the extent possible, languages other than English;

(B) health;

- (C) physical education;
- (D) fine arts;
- (E) economics, with emphasis on the free enterprise system and its benefits;
- (F) career and technology education; and
- (G) technology applications.

(i) The State Board of Education shall adopt rules for the implementation of this subchapter. Except as provided by Subsection (j) and (l), the board may not adopt rules that designate the methodology used by a teacher or the time spent by a teacher or a student on a particular task or subject.

(l) Any method used to teach elementary reading, spelling, or mathematics must be based on scientific research.

SECTION \_\_\_\_\_. Section 29.057, Education Code, is amended by adding Subsection (d) to read as follows:

(d) The curriculum used for teaching reading, spelling, and mathematics in bilingual education or special language programs must be based on scientific research.

SECTION \_\_\_\_\_. Sections 29.081(b) and (e), Education Code, are amended to read as follows:

(b) Each district shall provide accelerated instruction to a student enrolled in the district who has taken the secondary exit-level assessment instrument and has not performed satisfactorily on each section or who is at risk of dropping out of school. The accelerated instruction must consist of educational methods based on scientific research.

(e) A school district may use a private or public community-based dropout recovery education program based on scientific research to provide alternative education programs for students at risk of dropping out of school. The program must grade students' work, offer course credit, modify instructional time requirements, and establish methods of evaluating subject mastery.

SECTION \_\_\_\_\_. Section 29.084(a), Education Code, is amended to read as follows:

(a) Each school district may provide at the district's schools tutorial services based on scientific research [~~at the district's schools~~].

SECTION \_\_\_\_\_. Section 29.153(f), Education Code, is amended to read as follows:

(f) A district's prekindergarten program must [~~shall~~] be designed to develop skills necessary for success in the regular public school curriculum, including language, mathematics, and social skills, and must be based on scientific research.

SECTION \_\_\_\_\_. Section 29.253, Education Code, is amended to read as follows:

Sec. 29.253. PROVISION OF ADULT EDUCATION PROGRAMS. Adult education programs shall be provided by public school districts, public junior colleges, public universities, public nonprofit agencies, and community-based organizations approved in accordance with state statutes and rules adopted by the State Board of Education. The programs must be based on scientific research and must be designed to meet the education and training needs of adults to the extent possible within available public and private resources. Bilingual education may be the method of instruction for students who do not function satisfactorily in English whenever it is appropriate for their optimum development.

SECTION \_\_\_\_\_. Section 31.029, Education Code, is amended to read as follows:

Sec. 31.029. BILINGUAL TEXTBOOKS. The board shall purchase or otherwise acquire textbooks that are based on scientific research for use in bilingual education classes.

SECTION \_\_. Section 37.002(a), Education Code, is amended to read as follows:

(a) A teacher may send a student to the principal's office to maintain effective discipline in the classroom. The first time a student is referred to the principal, the principal must determine the student's educational performance level by administering a reading decoding and comprehension placement test and a mathematics placement test. If the student's test performance is two or more grade levels below the student's assigned grade level, the principal must place the student in an appropriate corrective reading or mathematics program that uses methods based on scientific research. If the student's test performance is equal to or greater than the student's assigned grade level, or if the student continues to act in an inappropriate manner after being placed in a corrective educational program that uses methods based on scientific research, the principal shall respond by employing appropriate discipline management techniques consistent with the student code of conduct adopted under Section 37.001.

SECTION \_\_. Section 37.008(a), Education Code, is amended to read as follows:

- (a) Each school district shall provide an alternative education program that:
- (1) is provided in a setting other than a student's regular classroom;
  - (2) is located on or off of a regular school campus;
  - (3) provides for the students who are assigned to the alternative education program to be separated from students who are not assigned to the program;
  - (4) focuses on English language arts, mathematics, science, history, and self-discipline;
  - (5) provides a reading, spelling, and mathematics curriculum based on scientific research;
  - (6) provides for students' educational and behavioral needs; and
  - (7) [~~(6)~~] provides supervision and counseling.

SECTION \_\_. Section 37.011(h), Education Code, is amended to read as follows:

(h) Academically, the mission of juvenile justice alternative education programs shall be to enable students to perform at grade level. A student who is not performing at grade level on entering a juvenile justice alternative education program, as determined by the student's performance on a reading decoding and comprehension placement test and a mathematics placement test, must be placed in a corrective educational program that uses methods based on scientific research. For purposes of accountability under Chapter 39, a student enrolled in a juvenile justice alternative education program is reported as if the student were enrolled at the student's assigned campus in the student's regularly assigned education program, including a special education program. Annually the Texas Juvenile Probation Commission, with the agreement of the commissioner, shall develop and implement a system of accountability consistent with Chapter 39, where appropriate, to assure that students make progress toward grade level while attending a juvenile justice alternative education program. The Texas Juvenile Probation Commission shall adopt rules for the distribution of funds appropriated under this section to juvenile boards in counties required to establish juvenile justice alternative education programs. A student served by a juvenile justice alternative education program on the basis of an expulsion under Section 37.007(a), (d), or (e) is not eligible for Foundation School Program funding under Chapter 42 or 31.

SECTION \_\_. Section 37.055, Education Code, is amended to read as follows:

Sec. 37.055. PARENTAL INVOLVEMENT. (a) On admitting a student to a school-community guidance center, a representative of the school district, the student,



and the student's parent shall develop an agreement that specifies the responsibilities of the parent and the student. The agreement must include:

(1) a statement of the student's behavioral and learning objectives, including a description of the educational methods based on scientific research and the behavioral modification methods that the school district intends to use to meet the objectives;

(2) a requirement that the parent attend specified meetings and conferences for teacher review of the student's progress; ~~and~~

(3) the parent's acknowledgement that the parent understands and accepts the responsibilities imposed by the agreement regarding attendance at meetings and conferences and assistance in meeting other objectives, defined by the district, to aid student remediation; and

(4) the school district's acknowledgement that the district will use the best educational methods based on scientific research available to accomplish the learning objectives.

(b) The superintendent of the school district may obtain a court order from a district court in the school district requiring a parent to comply with an agreement made under this section. A parent who violates a court order issued under this subsection may be punished for contempt of court.

(c) A parent may obtain a court order from a district court in the county in which a school district is located requiring the superintendent of the school district to comply with an agreement made under this section. A superintendent who violates a court order issued under this subsection may be punished for contempt of court.

(d) In this section, "parent" includes a legal guardian.

SECTION \_\_. Section 38.003(b), Education Code, is amended to read as follows:

(b) In accordance with the program approved by the State Board of Education, the board of trustees of each school district shall provide for the treatment of any student determined to have dyslexia or a related disorder, including a corrective reading program based on scientific research that has proven successful in providing dyslexia remediation.

SECTION \_\_\_\_\_. Notwithstanding the textbook review and adoption requirements under Section 31.022, Education Code, or the textbook review and adoption cycle the State Board of Education adopts under that section, the board shall review and adopt reading, spelling, and mathematics textbooks and accompanying teacher editions that are based on scientific research that satisfy requirements under Sections 28.002(a)(1)(A) and (B), Education Code, as amended by this Act, as soon as practicable.

### **Floor Amendment No. 77**

Amend **CSSB 4** by inserting the following new SECTION, appropriately numbered, in ARTICLE 2 of the bill and renumbering subsequent SECTIONS of ARTICLE 2 accordingly:

SECTION 2. \_\_. (a) Subchapter D, Chapter 33, Education Code, is amended by adding Section 33.086 to read as follows:

Sec. 33.086. CERTIFICATION IN CARDIOPULMONARY RESUSCITATION AND FIRST AID. (a) A school district employee who serves as the head coach or chief sponsor for an extracurricular athletic activity, including cheerleading, sponsored or sanctioned by a school district or the University Interscholastic League

must maintain and submit to the district proof of current certification in first aid and cardiopulmonary resuscitation issued by the American Red Cross, the American Heart Association, or another organization that provides equivalent training and certification.

(b) Each school district shall adopt procedures necessary for administering this section, including procedures for the time and manner in which proof of current certification must be submitted.

(b) Section 33.086, Education Code, as added by Subsection (a) of this section, applies beginning January 1, 2000.

### **Floor Amendment No. 78**

Amend **CSSB 4** by adding the following appropriately numbered SECTIONS to the bill and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION \_\_. Section 37.002(d), Education Code, is amended to read as follows:

(d) A teacher shall remove from class and send to the principal for placement in an alternative education program or for expulsion, as appropriate, a student who engages in conduct described under Section 37.006 or 37.007. The student may not be returned to that teacher's class without the teacher's consent [~~unless the committee established under Section 37.003 determines that such placement is the best or only alternative available~~].

SECTION \_\_. Section 37.007(b), Education Code, is amended to read as follows:

(b) A student may be expelled if the student, while on school property or while attending a school-sponsored or school-related activity on or off of school property:

(1) sells, gives, or delivers to another person or possesses, uses, or is under the influence of any amount of:

(A) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;

(B) a dangerous drug, as defined by Chapter 483, Health and Safety Code; or

(C) an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code; ~~or~~

(2) engages in conduct that contains the elements of an offense relating to abusable glue or aerosol paint under Sections 485.031 through 485.035, Health and Safety Code, or relating to volatile chemicals under Chapter 484, Health and Safety Code; or

(3) engages in conduct that contains the elements of the offense of assault under Section 22.01(a)(1), Penal Code, against an officer, employee, or volunteer of a school district.

SECTION \_\_. Section 37.009(a), Education Code, is amended to read as follows:

(a) Not later than the third class day after the day on which a student is removed from class by the teacher under Section 37.002(b) or (d) or by the school principal or other appropriate administrator under Section 37.006, the principal or other appropriate administrator shall schedule a conference among the principal or other appropriate administrator, a parent or guardian of the student, the student, and, except as otherwise provided by this subsection, the teacher removing the student from class, if any~~[, and the student]~~. A teacher who is the victim of the student's conduct may attend the conference if the teacher wishes to attend. If the teacher does not attend the conference, the teacher shall prepare a written statement

of the facts of the student's conduct. The statement must be provided to the student at the conference. At the conference, the student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal. The student may not be returned to the regular classroom pending the conference. Following the conference, and whether or not each requested person is in attendance after valid attempts to require the person's attendance, the principal shall order the placement of the student as provided by Section 37.002 or 37.006, as applicable, for a period consistent with the student code of conduct.

#### **Floor Amendment No. 79**

Amend the Shields amendment No. 78 to **CSSB 4** (on page 236 of the packet) as follows:

- (1) On page 1, line 2, strike "SECTIONS" and substitute "SECTION".
- (2) Strike page 1, lines 4-29, and page 2, lines 1-5.

#### **Floor Amendment No. 81**

Amend **CSSB 4** by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_. Section 11.162(b), Education Code, is amended to read as follows:

(b) The rules the board of trustees adopts must designate a source of funding that shall be used in providing uniforms for students at the school who reside with parents or legal guardians who receive financial assistance under Chapter 31, Human Resources Code, or unemployment compensation benefits [are educationally disadvantaged].

SECTION \_\_\_\_. Section 11.162(b), Education Code, as amended by this Act, applies beginning with the 1999-2000 school year.

#### **Floor Amendment No. 83**

Amend **CSSB 4** by adding the following new ARTICLE, appropriately numbered, and renumbering ARTICLES and SECTIONS of the bill accordingly:

ARTICLE \_\_. OFF-CAMPUS SCHOOL ACTIVITIES

SECTION \_\_.01. Subchapter D, Chapter 11, Education Code, is amended by adding Section 11.166 to read as follows:

Sec. 11.166. OFF-CAMPUS SCHOOL ACTIVITIES. (a) The board of trustees of an independent school district may adopt rules under which a facility or other property that is not owned by the school district may be used for parking, recreational activities, and tutoring conducted under the authority of the school district.

(b) A person who permits the use of a facility or other property owned or leased by the person for a school activity described by Subsection (a) is immune from liability for damage to or destruction of property, personal injury, or death that arises from the use of the facility or other property for the activity.

(c) This section does not apply to a person who receives compensation from the school district for the use of the facility or other property, other than reimbursement for the person's actual expenses in providing the facility or other property.

(d) This section does not apply to an act or omission of a person who permits the use of a facility or other property for a school activity described by Subsection (a) if the act or omission is intentional or wilfully or wantonly negligent or if the act or omission is done with conscious indifference or reckless disregard for the safety of others.

SECTION \_\_\_\_.02. This article applies only to a cause of action that accrues on or after the effective date of this Act. A cause of action that accrues before the effective date of this Act is governed by the law as it existed immediately before that date, and that law is continued in effect for that purpose.

#### **Floor Amendment No. 84**

Amend **CSSB 4** by inserting the following appropriately numbered SECTIONS and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION \_\_. Section 37.008(c), Education Code, is amended to read as follows:  
(c) Chapter 39 applies to each [An off-campus] alternative education program provided under this section [is not subject to a requirement imposed by this title, other than a limitation on liability, a reporting requirement, or a requirement imposed by this chapter or by Chapter 39].

SECTION \_\_. Section 37.008(m), Education Code, is repealed.

SECTION \_\_\_\_. The changes in law made by this Act by the amendment of Section 37.008(c), Education Code, and the repeal of Section 37.008(m), Education Code, apply beginning with the 1999-2000 school year.

#### **Floor Amendment No. 85**

Amend the Olivo amendment to **CSSB 4** to read as follows:

Amend **CSSB 4** by inserting the following appropriately numbered SECTIONS and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION \_\_. Section 37.008(c), Education Code, is amended to read as follows:  
(c) Chapter 39 applies to each [An off-campus] alternative education program provided under this section [is not subject to a requirement imposed by this title, other than a limitation on liability, a reporting requirement, or a requirement imposed by this chapter or by Chapter 39].

SECTION \_\_\_\_. The changes in law made by this Act by the amendment of Section 37.008(c), Education Code, applies beginning with the 1999-2000 school year.

#### **Floor Amendment No. 86**

Amend **CSSB 4** as follows:

Subsection (m), Section 37.008, Education Code, is amended to read as follows:

(m) The commissioner shall adopt rules necessary to ~~[administer the provisions of Chapter 39 for alternative education programs]~~ evaluate annually the performance of each district's alternative education program established under this subchapter. The evaluation required by this section shall be based on indicators defined by the commissioner, but must include student performance on assessment instruments required under Sections 39.023(a) and (c). Academically, the mission of alternative education programs shall be to enable students to perform at grade level. ~~[Annually, the commissioner shall define for alternative education programs acceptable performance and performance indicating a need for peer review, based principally on standards defined by the commissioner that measure academic progress of students toward grade level while attending an alternative education program.]~~

Subsection (c), Section 39.075, Education Code, is amended to read as follows:

(c) Based on the results of a special accreditation investigation, the commissioner may:

- (1) take appropriate action under Subchapter G;
- (2) lower the district's accreditation rating [~~and may take appropriate action under Subchapter G~~]; or
- (3) take action under both Subsection(c)(1) and (c)(2).

**Floor Amendment No. 87**

Amend **CSSB 4** as follows:

Amend Section 37.011(h) to read as follows:

(h) Academically, the mission of juvenile justice alternative education programs shall be to enable students to perform at grade level. For purposes of accountability under Chapter 39, a student enrolled in a juvenile justice alternative education program is reported as if the student were enrolled at the student's assigned campus in the student's regularly assigned education program, including a special education program. Annually the Texas Juvenile Probation Commission, with the agreement of the commissioner, shall develop and implement a system of accountability consistent with Chapter 39, where appropriate, to assure that students make progress toward grade level while attending a juvenile justice alternative education program. The Texas Juvenile Probation Commission shall adopt rules for the distribution of funds appropriated under this section to juvenile boards in counties required to establish juvenile justice alternative education programs. Except as determined by the commissioner, a student served by a juvenile justice alternative education program on the basis of an expulsion under Section 37.007(a), (d), or (e) is not eligible for Foundation School Program funding under Chapter 42 or 31; if the juvenile justice alternative education program receives funding from the Texas Juvenile Probation Commission under this subchapter.

**Floor Amendment No. 88**

Amend **CSSB 4** by inserting the following new SECTION, appropriately numbered, and by renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Section 39.052(c), Education Code, is amended to read as follows:

(c) The commissioner shall adopt rules for requiring dissemination of appropriate student performance portions of campus report cards annually to the parent[~~, guardian, conservator,~~] or other person having lawful control of each student at the campus. The portions of campus report cards disseminated to the parent or other person having lawful control of a student must include information concerning the performance of the students at each campus grade level on the academic excellence indicators specified under Sections 39.051(b)(1)-(8) and, in the case of a report card relating to a high school campus, the number and percentage of students who, for the most recent three-year or four-year period, depending on the grade levels offered, started high school at the campus and dropped out of school before graduating. On written request, the school district shall provide a copy of a campus report card to any other party.

(b) Not later than January 1, 2000, the commissioner of education shall adopt rules in accordance with Section 39.052(c), Education Code, as amended by Subsection (a) of this section. Those rules apply to public school campus report cards for the 2000-2001 school year and thereafter.

**Floor Amendment No. 89**

Amend **CSSB 4** between ARTICLES 2 and 3 of the bill (House committee report, page 52, between lines 15 and 16), by adding the following appropriately numbered ARTICLE to the bill and renumbering subsequent ARTICLES and SECTIONS of the bill accordingly:

ARTICLE \_\_\_\_ . **INSTALLATION OF ASBESTOS IN PUBLIC SCHOOLS**

SECTION \_\_\_\_ . Chapter 161, Health and Safety Code, is amended by adding Subchapter Q to read as follows:

**SUBCHAPTER Q. INSTALLATION OF ASBESTOS IN PUBLIC SCHOOLS**

Sec. 161.401. DEFINITIONS. In this subchapter:

(1) "Asbestos" means the asbestiform varieties of chrysotile, amosite, crocidolite, tremolite, anthophyllite, and actinolite and all asbestos-containing building materials containing more than one percent of any of those substances.

(2) "Contractor" means a person who constructs, repairs, or maintains a public school building as an independent contractor. The term includes a subcontractor.

Sec. 161.402. ASBESTOS INSTALLATION OR REINSTALLATION IN PUBLIC SCHOOLS PROHIBITED. A person may not install asbestos-containing building materials or reinstall asbestos-containing building materials in a public school building.

Sec. 161.403. INJUNCTION. (a) The attorney general or the appropriate district or county attorney, in the name of the state, may institute and conduct an action in a district court of Travis County or of a county in which any part of the violation occurs for an injunction or other process against a contractor who is violating this subchapter.

(b) The district court may grant any prohibitory or mandatory relief warranted by the facts, including a temporary restraining order, temporary injunction, or permanent injunction.

Sec. 161.404. CIVIL PENALTY. (a) A contractor who violates this subchapter is subject to a civil penalty not to exceed \$10,000 a day for each violation. Each day of violation constitutes a separate violation for purposes of penalty assessment. In determining the amount of the civil penalty, the court shall consider:

(1) the contractor's previous violations;

(2) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(3) whether the health and safety of the public was threatened by the violation;

(4) the demonstrated good faith of the contractor; and

(5) the amount necessary to deter future violations.

(b) The attorney general or the appropriate district or county attorney, in the name of the state, may institute and conduct an action authorized by this section in a district court of Travis County or of a county in which any part of the violation occurs.

(c) The party bringing the suit may:

(1) combine a suit to assess and recover civil penalties with a suit for injunctive relief brought under Section 161.403; or

(2) file a suit to assess and recover civil penalties independently of a suit for injunctive relief.

(d) The party bringing the suit may recover reasonable expenses incurred in obtaining injunctive relief, civil penalties, or both, including investigation costs, court costs, reasonable attorney's fees, witness fees, and deposition expenses.

(e) A penalty collected under this section by the attorney general shall be deposited in the state treasury to the credit of the general revenue fund. A penalty collected under this section by a district or county attorney shall be deposited to the credit of the general fund of the county in which the suit was heard.

Sec. 161.405. ADMINISTRATIVE PENALTY. (a) The board may impose an administrative penalty on a contractor who violates this subchapter.

(b) The amount of the penalty may not exceed \$10,000, and each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty. The amount shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the history of previous violations;

(3) the amount necessary to deter a future violation;

(4) efforts to correct the violation; and

(5) any other matter that justice may require.

(c) The enforcement of the penalty may be stayed during the time the order is under judicial review if the contractor pays the penalty to the clerk of the court or files a supersedeas bond with the court in the amount of the penalty. A contractor who cannot afford to pay the penalty or file the bond may stay the enforcement by filing an affidavit in the manner required by the Texas Rules of Civil Procedure for a party who cannot afford to file security for costs, subject to the right of the board to contest the affidavit as provided by those rules.

(d) The attorney general may sue to collect the penalty.

(e) A proceeding to impose the penalty is considered to be a contested case under Chapter 2001, Government Code.

Sec. 161.406. REMEDIES CUMULATIVE. The civil penalty, administrative penalty, and injunction authorized by this subchapter are in addition to any other civil, administrative, or criminal action provided by law.

SECTION \_\_\_\_\_. The change in law made by Subchapter Q, Chapter 161, Health and Safety Code, as added by this Act, applies only to the installation or reinstallation of asbestos on or after the effective date of this article. The installation or reinstallation of asbestos before the effective date of this article is governed by the law in effect on the date the asbestos was installed, and the former law is continued in effect for that purpose.

### **Floor Amendment No. 90**

Amend the Palmer amendment to **CSSB 4** (on page 317 of the packet) as follows:

(1) Strike page 1, lines 10-17 and lines 22-29.

(2) On page 1, line 18, strike "Sec. 161.402" and substitute "Sec. 161.401".

(2) Strike page 2 and 3.

(3) Strike page 4, line 1.

### **Floor Amendment No. 91**

Amend **CSSB 4** by adding the following new ARTICLE to the bill, appropriately numbered, and renumbering ARTICLES and SECTIONS of the bill appropriately:

ARTICLE \_\_. PILOT OR EXPERIMENTAL PROGRAMS OR CURRICULUMS

SECTION \_\_. Subsection (a), Section 26.009, Education Code, is amended to read as follows:

(a) An employee of a school district must obtain the written consent of a child's parent before the employee may:

(1) conduct a psychological examination, test, or treatment, unless the examination, test, or treatment is required under Section 38.004 or state or federal law regarding requirements for special education;

(2) require the child to take part in a pilot or experimental program or curriculum; or

(3) [~~2~~] make or authorize the making of a videotape of a child or record or authorize the recording of a child's voice.

### **Floor Amendment No. 92**

Amend the Madden Amendment to **CSSB 4** (on page 321 of the packet) as follows:

(1) On lines 5 and 6, strike "Subsection (a), Section 26.009, Education Code, is amended" and substitute "Section 26.009, Education Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:".

(2) Immediately after line 16, insert the following:

(c) The commissioner by rule shall define "pilot" and "experimental" for purposes of Subsection (a)(2).

### **Floor Amendment No. 93**

Amend the Tillery Amendment No. 10 to **CSSB 4** (on page 61 of the packet) by striking "on page 17, line 18, on page 34, line 15: "Section 42.2512, or 42.2513" and substituting "on page 34, line 15: "Section 42.2512 or 42.2513".

### **Floor Amendment No. 1 on Third Reading**

Amend **CSSB 4** on third reading in Section 1.21. as follows:

(1) Strike the; after "district" on line 8 page 20 and add the following: but not less than 400;

### **Floor Amendment No. 2 on Third Reading**

Amend **CSSB 4**, on third reading, by adding the following appropriately numbered SECTION and renumbering the remaining SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 37.006, Education Code, is amended by adding Subsection (l) to read as follows:

(l) Notwithstanding any other provision of this code, a student who is younger than six years of age may not be removed from class and placed in an alternative education program.

### **Floor Amendment No. 3 on Third Reading**

Amend **CSSB 4** on third reading by inserting the following new SECTION, appropriately numbered, and by renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) Chapter 21, Education Code, is amended by adding Subchapter K to read as follows:



SUBCHAPTER K. TEXAS TROOPS TO TEACHERS PROGRAM

Sec. 21.501. DEFINITION. In this subchapter, "program" means the Texas Troops to Teachers Program.

Sec. 21.502. ESTABLISHMENT OF PROGRAM. The agency shall establish a program to:

(1) assist persons who have served in the armed forces of the United States and are separated from active duty to obtain certification as an elementary or secondary school teacher in this state; and

(2) facilitate the employment of those persons by school districts that have a shortage of teachers.

Sec. 21.503. ELIGIBILITY. A person is eligible for the program if the person:

(1) has served in the armed forces of the United States;

(2) is honorably discharged, retired, or released from active duty on or after October 1, 1990, after at least six years of continuous active duty service immediately before the discharge, retirement, or release;

(3) has received a baccalaureate or advanced degree from a public or private institution of higher education accredited by a regional accrediting agency or group that is recognized by a nationally recognized accreditation board; and

(4) satisfies any other criteria for selection jointly prescribed by the agency and the State Board for Educator Certification.

Sec. 21.504. INFORMATION AND APPLICATIONS. (a) The agency shall develop an application for the program.

(b) The agency and the State Board for Educator Certification shall distribute the applications and information regarding the program.

Sec. 21.505. SELECTION OF PARTICIPANTS. (a) The agency shall select persons to participate in the program on the basis of applications submitted to the agency.

(b) Each application must be submitted:

(1) in the form and contain the information the agency requires; and

(2) in a timely manner.

(c) An application is considered to be submitted in a timely manner for purposes of Subsection (b)(2) if the application is submitted:

(1) not later than October 5, 1999, in the case of an applicant discharged, retired, or released from active duty before January 19, 1999; or

(2) except as provided by Subdivision (1), not later than the first anniversary of the date of the applicant's discharge, retirement, or release from active duty.

Sec. 21.506. LIMITATION ON IMPLEMENTATION. The agency may not select a person to participate in the program unless the agency has sufficient state appropriations to pay the stipend provided by Section 21.509 at the time of the selection.

Sec. 21.507. PREFERENCES. (a) In selecting persons to participate in the program, the agency shall give preference to a person who:

(1) has significant educational or military experience in science, mathematics, or engineering and agrees to seek employment as a teacher in one of those subjects in a public elementary or secondary school in this state; or

(2) has significant educational or military experience in a field other than science, mathematics, or engineering identified by the agency as a field important for state educational objectives and agrees to seek employment as a teacher in a subject related to that field in a public elementary or secondary school in this state.

(b) The commissioner shall determine the level of experience considered significant for purposes of this section.

Sec. 21.508. AGREEMENT. A person selected to participate in the program must enter into a written agreement with the agency under which the person agrees to:

(1) obtain, within the period the agency by rule requires, certification as an elementary or secondary school teacher in this state; and

(2) accept, during the first school year that begins after the date the person becomes certified, an offer of full-time employment as an elementary or secondary school teacher with a school district in this state.

Sec. 21.509. STIPEND. The agency shall pay to each participant in the program a stipend of \$5,000.

Sec. 21.510. REIMBURSEMENT. (a) A participant in the program who fails to obtain certification or employment as required in the agreement under Section 21.508 or who voluntarily leaves or is terminated for cause from the employment after teaching in a public elementary or secondary school in this state for less than five school years shall reimburse the agency for the portion of the stipend that bears the same ratio to the amount of the stipend as the unserved portion of required service bears to the five years of required service.

(b) The obligation to reimburse the agency under this section is, for all purposes, a debt to the state. A discharge in bankruptcy under Title 11, United States Code, does not release a participant from the obligation to reimburse the agency. The amount owed bears interest at the rate equal to the highest rate being paid by the United States on the day the reimbursement is determined to be due for securities that have maturities of 90 days or less, and the interest accrues from the day the participant receives notice of the amount due.

(c) For purposes of this section, a participant in the program is not considered to be in violation of an agreement under Section 21.508 during any period in which the participant:

(1) is pursuing a full-time course of study related to the field of teaching at a public or private institution of higher education approved by the State Board for Educator Certification;

(2) is serving on active duty as a member of the armed forces of the United States;

(3) is temporarily totally disabled for a period not to exceed three years as established by sworn affidavit of a qualified physician;

(4) is unable to secure employment for a period not to exceed one year because of care required by a disabled spouse;

(5) is seeking and unable to find full-time employment as a teacher in a public elementary or secondary school for a single period not to exceed 27 months; or

(6) satisfies the provisions of any additional reimbursement exception adopted by the agency.

(d) A participant is excused from reimbursement under Subsection (a) if:

(1) the participant becomes permanently totally disabled as established by sworn affidavit of a qualified physician; or

(2) the agency waives reimbursement in the case of extreme hardship to the participant.

Sec. 21.511. The commissioner shall adopt rules to implement this subchapter.

(b) If the commissioner of education determines that federal funds are available for a federal program with the general purposes of Subchapter K, Chapter 21, Education Code, as added by Subsection (a) of this section, such as for a program under 10 U.S.C. Section 1151, the commissioner of education shall discontinue the Texas Troops to Teachers Program and shall file notice of that discontinuation with the secretary of state to be published in the Texas Register.

#### **Floor Amendment No. 4 on Third Reading**

Amend the Delisi amendment to **CSSB 4** on third reading by adding the following subsection at the end of the amendment:

(c) The commissioner of education may utilize discretionary funds or non-utilized balances to pay stipends for a program with the general purposes of Subchapter K, Chapter 21, Education Code, if federal funds, such as the funds provided for a program under 10 U.S.C. Section 1151, are not available or cease to be authorized.

#### **Floor Amendment No. 5 on Third Reading**

Amend **CSSB 4** on third reading as follows:

(1) On page 37, line 4, strike "special".

(2) On page 37, line 4, strike "for" and substitute "authorized under this Code that serve".

The amendments were read.

Senator Bivins moved that the Senate do not concur in the House amendments, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **SB 4** before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Bivins, Chair; West, Nelson, Ogden, and Harris.

### **SENATE BILL 1421 WITH HOUSE AMENDMENTS**

Senator Lucio called **SB 1421** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

#### **Amendment**

Amend **SB 1421** by substituting in lieu thereof the following:

#### **A BILL TO BE ENTITLED AN ACT**

relating to the regulation of the subdivision or development of land in certain economically distressed areas, including colonias, and certain other areas; providing penalties.

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

SECTION 1. Section 103.001, Local Government Code, is amended to read as follows:

Sec. 103.001. ANNUAL AUDIT; FINANCIAL STATEMENT. (a) A municipality shall have its records and accounts audited annually and shall have an annual financial statement prepared based on the audit.

(b) A municipality subject to Section 16.356, Water Code, must include in its financial statement a specific report on compliance with that section.

SECTION 2. Section 212.012, Local Government Code, is amended to read as follows:

Sec. 212.012. CONNECTION OF UTILITIES. (a) Except as provided by Subsection (c), an entity described by Subsection (b) may not serve or connect any land with water, sewer, electricity, gas, or other utility service unless the entity has been presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115.

(b) The prohibition established by Subsection (a) applies only to:

(1) a municipality and officials of a municipality that provides water, sewer, electricity, gas, or other utility service;

(2) a municipally owned or municipally operated utility that provides any of those services;

(3) a public utility that provides any of those services;

(4) a water supply or sewer service corporation organized and operating under Chapter ~~67, Water Code [76, Acts of the 43rd Legislature, 1st Called Session, 1933 (Article 1434a, Vernon's Texas Civil Statutes)]~~, that provides any of those services;

(5) a county that provides any of those services; and

(6) a special district or authority created by or under state law that provides any of those services.

(c) An entity described by Subsection (b) may serve or connect land with water, sewer, electricity, gas, or other utility service regardless of whether the entity is presented with or otherwise holds a certificate applicable to the land issued under Section 212.0115 if:

(1) the land is covered by a development plat approved under Subchapter B or under an ordinance or rule relating to the development plat;

(2) the land was first served or connected with service by an entity described by Subsection (b)(1), (b)(2), or (b)(3) before September 1, 1987;

(3) the land was first served or connected with service by an entity described by Subsection (b)(4), (b)(5), or (b)(6) before September 1, 1989; or

(4) the municipal authority responsible for approving plats issues a certificate stating that:

(A) the land;

(i) [;] before September 1, 1995, was sold or conveyed to the person requesting service by any means of conveyance, including a contract for deed or executory contract;

(ii) [~~(B) the land~~] is located in a subdivision in which the entity has previously provided service;

(iii) [~~(C) the land~~] is located outside the limits of the municipality;

(iv) [~~(D) the land~~] is located in a county to which Subchapter B, Chapter 232, applies [an "affected county" as that term is defined by Section 232.021]; and

(v) is the site of ~~[(E)]~~ construction of a residence ~~[on the land]~~, evidenced by at least the existence of a completed foundation, that was begun on or before May 1, 1997; or

(B) the land was not subdivided after September 1, 1995, and:

(i) water service is available within 1,000 feet of the subdivided land; or

(ii) water service is available more than 1,000 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

(d) An entity described by Subsection (b) may provide utility service to land described by Subsection (c)(4)(A) only if the person requesting service:

(1) is not the land's subdivider or the subdivider's agent; and

(2) provides to the entity a certificate described by Subsection (c)(4)(A).

(e) A person requesting service may obtain a certificate under Subsection (c)(4)(A) only if the person provides to the municipal authority responsible for approving plats either:

(1) a copy of the means of conveyance or other documents that show that the land was sold or conveyed to the person requesting service before September 1, 1995, and a notarized affidavit by that person that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 1997; or

(2) a notarized affidavit by the person requesting service that states that the property was sold or conveyed to that person before September 1, 1995, and that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 1997.

(f) A person requesting service may obtain a certificate under Subsection (c)(4)(B) only if the person provides to the municipal authority responsible for approving plats an affidavit that states that the property was not sold or conveyed to that person from a subdivider or the subdivider's agent after September 1, 1995.

(g) On request, the municipal authority responsible for approving plats shall provide to the attorney general and any appropriate local, county, or state law enforcement official a copy of any document on which the municipal authority relied in determining the legality of providing service.

(h) ~~[(g)]~~ This section may not be construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against a subdivider for a violation of a state or local law, regardless of the date on which the violation occurred.

(i) ~~[(h)]~~ In this section:

(1) "Foundation" means the lowest division of a residence, usually consisting of a masonry slab or a pier and beam structure, that is partly or wholly below the surface of the ground and on which the residential structure rests.

(2) "Subdivider" has the meaning assigned by Section 232.021.

SECTION 3. The heading to Subchapter B, Chapter 232, Local Government Code, is amended to read as follows:

SUBCHAPTER B. SUBDIVISION PLATTING REQUIREMENTS  
IN COUNTY NEAR INTERNATIONAL BORDER  
[ECONOMICALLY DISTRESSED COUNTIES]

SECTION 4. Section 232.021, Local Government Code, is amended to read as follows:

Sec. 232.021. DEFINITIONS. In this subchapter:

(1) ~~["Affected county" means a county:~~

~~[(A) that has a per capita income that averaged 25 percent below the state average for the most recent three consecutive years for which statistics are available and an unemployment rate that averaged 25 percent above the state average for the most recent three consecutive years for which statistics are available; and~~

~~[(B) any part of which is within 50 miles of an international border.~~

~~[(2)]~~ "Board" means the Texas Water Development Board.

~~[(3)]~~ "Common promotional plan" means any plan or scheme of operation undertaken by a single subdivider or a group of subdividers acting in concert, either personally or through an agent, to offer for sale or lease lots when the land is:

(A) contiguous or part of the same area of land; or

(B) known, designated, or advertised as a common unit or by a common name.

~~[(4)]~~ "Executive administrator" means the executive administrator of the Texas Water Development Board.

~~[(5)]~~ "Floodplain" means any area in the 100-year floodplain that is susceptible to being inundated by water from any source ~~or [and]~~ that is identified by the Federal Emergency Management Agency under the National Flood Insurance Act of 1968 (42 U.S.C. Sections 4001 through 4127).

~~[(6)]~~ "Lease" includes an offer to lease.

~~[(7)]~~ "Lot" means a parcel into which land that is intended for residential use is divided.

~~[(8)]~~ "Minimum state standards" means the minimum standards set out for:

(A) adequate drinking water by or under Section 16.343(b)(1), Water Code;

(B) adequate sewer facilities by or under Section 16.343(c)(1), Water Code; or

(C) the treatment, disposal, and management of solid waste by or under Chapters 361 and 364, Health and Safety Code.

~~[(9)]~~ "Plat" means a map, chart, survey, plan, or replat containing a description of the subdivided land with ties to permanent landmarks or monuments.

~~[(10)]~~ "Sell" includes an offer to sell.

~~[(11)]~~ "Sewer," "sewer services," or "sewer facilities" means treatment works as defined by Section 17.001, Water Code, or individual, on-site, or cluster treatment systems such as septic tanks and includes drainage facilities and other improvements for proper functioning of septic tank systems.

~~[(12)]~~ "Subdivide" means to divide the surface area of land into lots intended primarily for residential use.

~~[(13)]~~ "Subdivider" means an individual, firm, corporation, or other legal entity that owns any interest in land and that directly or indirectly subdivides land into lots as part of a common promotional plan in the ordinary course of business.

~~[(14)]~~ "Subdivision" means an area of land that has been subdivided into lots for sale or lease.

~~[(15)]~~ "Utility" means a person, including a legal entity or political subdivision, that provides the services of:

(A) an electric utility, as defined by Section 31.002, Utilities Code [~~3(c)(1), Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes)~~];

(B) a gas utility, as defined by Section 101.003, Utilities Code [~~1-03, Gas Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes)~~]; and

(C) a water and sewer utility, as defined by Section 13.002, Water Code.

SECTION 5. Section 232.022, Local Government Code, is amended to read as follows:

Sec. 232.022. APPLICABILITY. (a) This subchapter applies only to a county any part of which is located within 50 miles of an international border.

(b) This subchapter applies only to land that is subdivided into two [~~four~~] or more lots that are intended primarily for residential use in the jurisdiction of the [~~an affected~~] county. A lot is presumed to be intended for residential use if the lot is five acres or less. This subchapter does not apply if the subdivision is incident to the conveyance of the land as a gift between persons related to each other within the third degree by affinity or consanguinity, as determined under Chapter 573, Government Code.

(c) [~~(b)~~] For purposes of this section, land is considered to be in the jurisdiction of a county if the land is located in the county and [~~;~~] outside the corporate limits of municipalities [~~;~~ and outside the extraterritorial jurisdiction of municipalities, as determined under Chapter 42].

SECTION 6. Subsection (a), Section 232.023, Local Government Code, is amended to read as follows:

(a) A subdivider of land [~~in an affected county~~] must have a plat of the subdivision prepared. A subdivision of a tract under this subsection includes a subdivision of real property by any method of conveyance, including a contract for deed, oral contract, contract of sale, or other type of executory contract, regardless of whether the subdivision is made by using a metes and bounds description.

SECTION 7. Section 232.024, Local Government Code, is amended by adding Subsection (d) to read as follows:

(d) The commissioners court of the county in which the land is located may establish a planning commission as provided by Subchapter D. The planning commission, including its findings and decisions, is subject to the same provisions applicable to the commissioners court under this subchapter, including Section 232.034 relating to conflicts of interest.

SECTION 8. Subsection (c), Section 232.026, Local Government Code, is amended to read as follows:

(c) If the commissioners court provides an extension, the commissioners court shall notify the attorney general of the extension and the reason for the extension. The attorney general shall notify all other state agencies having enforcement power over subdivisions [~~in affected counties~~] of the extension.

SECTION 9. Section 232.029, Local Government Code, is amended by amending Subsections (c), (d), and (e), adding a new Subsection (f), and relettering Subsections (f), (g), (h), and (i) as Subsections (g), (h), (i), and (j) to read as follows:

(c) An electric, gas, water, or sewer service utility may serve or connect subdivided land with water, sewer, electricity, gas, or other utility service regardless of whether the utility receives a certificate issued by the commissioners court under Section 232.028(a) or receives a determination from the commissioners court under Section 232.028(b) if the utility is provided with a certificate issued by the commissioners court that states that:

(1) [~~before July 1, 1995;~~] the subdivided land:

(A) before September 1, 1995, was sold or conveyed to the person requesting service by any means of conveyance, including a contract for deed or executory contract;

(B) [~~(2) the land~~] is located in a subdivision in which the utility has previously provided service; and

(C) is the site of [~~(3)~~] construction of a residence [~~on the land~~], evidenced by at least the existence of a completed foundation, that was begun on or before May 1, 1997; or

(2) the land was not subdivided after September 1, 1995, and:

(A) water service is available within 1,000 feet of the subdivided land; or

(B) water service is available more than 1,000 feet from the subdivided land and the extension of water service to the land may be feasible, subject to a final determination by the water service provider.

(d) A utility may provide utility service to subdivided land described by Subsection (c)(1) only if the person requesting service:

(1) is not the land's subdivider or the subdivider's agent; and

(2) provides to the utility a certificate described by Subsection (c)(1).

(e) A person requesting service may obtain a certificate under Subsection (c)(1) only if the person provides to the commissioners court either:

(1) a copy of the means of conveyance or other documents that show that the land was sold or conveyed to the person requesting service before September [~~July~~] 1, 1995, and a notarized affidavit by that person that states that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 1997; or

(2) a notarized affidavit by the person requesting service that states that the property was sold or conveyed to that person before September [~~July~~] 1, 1995, and that construction of a residence on the land, evidenced by at least the existence of a completed foundation, was begun on or before May 1, 1997.

(f) A person requesting service may obtain a certificate under Subsection (c)(2) only if the person provides to the commissioners court an affidavit that states that the property was not sold or conveyed to that person from a subdivider or the subdivider's agent after September 1, 1995.

(g) On request, the commissioners court shall provide to the attorney general and any appropriate local, county, or state law enforcement official a copy of any document on which the commissioners court relied in determining the legality of providing service.

(h) [~~(g)~~] This section may not be construed to abrogate any civil or criminal proceeding or prosecution or to waive any penalty against a subdivider for a violation of a state or local law, regardless of the date on which the violation occurred.

(i) [~~(h)~~] The prohibition established by this section shall not prohibit an electric or gas utility from providing electric or gas utility connection or service to a lot being sold, conveyed, or purchased through a contract for deed or executory contract or other device by a subdivider prior to July 1, 1995, which is located within a subdivision where the utility has previously established service and was subdivided by a plat approved prior to September 1, 1989.



(j) [(†)] In this section, "foundation" means the lowest division of a residence, usually consisting of a masonry slab or a pier and beam structure, that is partly or wholly below the surface of the ground and on which the residential structure rests.

SECTION 10. Subsection (b), Section 232.030, Local Government Code, is amended to read as follows:

(b) Except as provided by Section 16.350(d), Water Code, or Section 232.042 or 232.043, the commissioners court may not grant a variance or adopt regulations that waive any requirements of this subchapter.

SECTION 11. Subchapter B, Chapter 232, Local Government Code, is amended by adding Section 232.0305 to read as follows:

Sec. 232.0305. COUNTY INSPECTOR. (a) The commissioners court may impose a fee on a subdivider of property under this subchapter for an inspection of the property to ensure compliance with the subdivision regulations adopted under this subchapter, Section 16.343, Water Code, or other law.

(b) Fees collected under this section may be used only to fund inspections conducted under this section.

SECTION 12. Subsection (b), Section 232.035, Local Government Code, is amended to read as follows:

(b) Notwithstanding any other remedy at law or equity, a subdivider or an agent of a subdivider may not cause, suffer, allow, or permit any part of a subdivision [~~in an affected county~~] over which the subdivider or an agent of the subdivider has control, or a right of ingress and egress, to become a public health nuisance as defined by Section 341.011, Health and Safety Code.

SECTION 13. Subsection (a), Section 232.037, Local Government Code, is amended to read as follows:

(a) The attorney general, or the district attorney, criminal district attorney, county attorney with felony responsibilities, or county attorney of the [~~an affected~~] county may take any action necessary in a court of competent jurisdiction on behalf of the state or on behalf of residents to:

(1) enjoin the violation or threatened violation of the model rules adopted under Section 16.343, Water Code;

(2) enjoin the violation or threatened violation of a requirement of this subchapter or a rule adopted by the commissioners court under this subchapter;

(3) recover civil or criminal penalties, attorney's fees, litigation costs, and investigation costs; and

(4) require platting or replatting under Section 232.040.

SECTION 14. Section 232.037, Local Government Code, is amended by adding Subsection (d) to read as follows:

(d) This subchapter is subject to the applicable enforcement provisions prescribed by Sections 16.352, 16.353, 16.354, and 16.3545, Water Code.

SECTION 15. Section 232.038, Local Government Code, is amended to read as follows:

Sec. 232.038. SUIT BY PRIVATE PERSON IN ECONOMICALLY DISTRESSED AREA. A person who has purchased or is purchasing a lot after July 1, 1995, in a subdivision for residential purposes that does not have water and sewer services as required by this subchapter and is located in an economically distressed area, as defined by Section 17.921, Water Code, [~~in an affected county;~~] from a subdivider, may bring suit in the district court in which the property is located or in a district court in Travis County to:

(1) declare the sale of the property void and require the subdivider to return the purchase price of the property; and

(2) recover from the subdivider:

(A) the market value of any permanent improvements the person placed on the property;

(B) actual expenses incurred as a direct result of the failure to provide adequate water and sewer facilities;

(C) court costs; and

(D) reasonable attorney's fees.

SECTION 16. Subsection (a), Section 232.039, Local Government Code, is amended to read as follows:

(a) A subdivider of land [~~in an affected county~~] may apply to the commissioners court to cancel all or part of the subdivision in the manner provided by Section 232.008 after notice and hearing as provided by this section.

SECTION 17. Subsection (c), Section 232.040, Local Government Code, is amended to read as follows:

(c) Subsection (b) does not apply if a seller other than a subdivider or agent of a subdivider[:

~~(1)] resides on the lot[; or~~

~~(2) purchases the lot through a contract for deed].~~

SECTION 18. The heading to Section 232.042, Local Government Code, is amended to read as follows:

Sec. 232.042. VARIANCES FROM REPLATTING REQUIREMENTS.

SECTION 19. Subchapter B, Chapter 232, Local Government Code, is amended by adding Section 232.043 to read as follows:

Sec. 232.043. VARIANCES FROM PLATTING REQUIREMENTS. (a) On the request of a subdivider who created an unplatted subdivision or a resident purchaser of a lot in the subdivision, the commissioners court of a county may grant:

(1) a delay or variance from compliance with the subdivision requirements prescribed by Section 232.023(b)(8) or (9), 232.025(1), (2), (3), (4), or (5), or 232.030(c)(2), (3), (5), or (6); or

(2) a delay or variance for an individual lot from compliance with the requirements prescribed by the model subdivision rules adopted under Section 16.343, Water Code, for:

(A) the distance that a structure must be set back from roads or property lines; or

(B) the number of single-family, detached dwellings that may be located on a lot.

(b) If the commissioners court makes a written finding that the subdivider who created the unplatted subdivision no longer owns property in the subdivision, the commissioners court may grant a delay or variance under this section only if:

(1) a majority of the lots in the subdivision were sold before September 1, 1995;

(2) a majority of the resident purchasers in the subdivision sign a petition supporting the delay or variance;

(3) the person requesting the delay or variance submits to the commissioners court:

(A) a description of the water and sewer service facilities that will be constructed or installed to service the subdivision;

(B) a statement specifying the date by which the water and sewer service facilities will be fully operational; and

(C) a statement signed by an engineer licensed in this state certifying that the plans for the water and sewer facilities meet the minimum state standards;

(4) the commissioners court finds that the unplatted subdivision at the time the delay or variance is requested is developed in a manner and to an extent that compliance with specific platting requirements is impractical or contrary to the health or safety of the residents of the subdivision; and

(5) the subdivider who created the unplatted subdivision has not violated local law, federal law, or state law, excluding this chapter, in subdividing the land for which the delay or variance is requested, if the subdivider is the person requesting the delay or variance.

(c) If the commissioners court makes a written finding that the subdivider who created the unplatted subdivision owns property in the subdivision, the commissioners court may grant a provisional delay or variance only if the requirements of Subsection (b) are satisfied. The commissioners court may issue a final grant of the delay or variance only if the commissioners court has not received objections from the attorney general before the 91st day after the date the commissioners court submits the record of its proceedings to the attorney general as prescribed by Subsection (d).

(d) If the commissioners court grants a delay or variance under this section, the commissioners court shall:

(1) make findings specifying the reason compliance with each requirement is impractical or contrary to the health or safety of residents of the subdivision;

(2) keep a record of its proceedings and include in the record documentation of the findings and the information submitted under Subsection (b); and

(3) submit a copy of the record to the attorney general.

(e) The failure of the attorney general to comment or object to a delay or variance granted under this section does not constitute a waiver of or consent to the validity of the delay or variance granted.

(f) This section does not affect a civil suit filed against, a criminal prosecution of, or the validity of a penalty imposed on a subdivider for a violation of law, regardless of the date on which the violation occurred.

SECTION 20. The heading to Subchapter C, Chapter 232, Local Government Code, is amended to read as follows:

SUBCHAPTER C. [~~ALTERNATE~~] SUBDIVISION  
PLATTING REQUIREMENTS IN CERTAIN  
[~~OTHER~~] ECONOMICALLY DISTRESSED COUNTIES

SECTION 21. Section 232.071, Local Government Code, is amended to read as follows:

Sec. 232.071. APPLICABILITY. This subchapter applies only to the subdivision of land located:

(1) outside the corporate limits of a municipality [~~or the extraterritorial jurisdiction of a municipality~~]; and

(2) in a county:

(A) eligible for financial assistance under Section 15.407, Water Code, or Subchapter K, Chapter 17, Water Code; and

(B) to which Subchapter B does not apply.

SECTION 22. Section 232.073, Local Government Code, is amended to read as follows:

Sec. 232.073. APPROVAL BY COUNTY REQUIRED. (a) A plat filed under Section 232.072 is not valid unless the commissioners court of the county in which the land is located approves the plat by an order entered in the minutes of the court. The commissioners court shall refuse to approve a plat if it does not meet the requirements prescribed by or under this subchapter or if any bond required under this subchapter is not filed with the county clerk.

(b) The commissioners court of the county in which the land is located may establish a planning commission as provided by Subchapter D. The planning commission, including its findings and decisions, is subject to the same provisions applicable to the commissioners court under this subchapter, including Section 232.078 relating to conflicts of interest.

SECTION 23. Subchapter C, Chapter 232, Local Government Code, is amended by adding Section 232.0775 to read as follows:

Sec. 232.0775. COUNTY INSPECTOR. (a) The commissioners court may impose a fee on a subdivider of property under this subchapter for an inspection of the property to ensure compliance with the subdivision regulations adopted under this subchapter, Section 16.343, Water Code, or other law.

(b) Fees collected under this section may be used only to fund inspections conducted under this section.

SECTION 24. Section 232.080, Local Government Code, is amended by adding Subsection (c) to read as follows:

(c) This subchapter is subject to the applicable enforcement provisions prescribed by Sections 16.352, 16.353, 16.354, and 16.3545, Water Code.

SECTION 25. Chapter 232, Local Government Code, is amended by adding Subchapter D to read as follows:

#### SUBCHAPTER D. COUNTY PLANNING COMMISSION

Sec. 232.091. APPLICABILITY. This subchapter applies only to a county:

(1) authorized to establish a planning commission under Subchapter B or C; and

(2) in which the commissioners court by order elects to operate under this subchapter.

Sec. 232.092. ESTABLISHMENT AND ABOLITION OF PLANNING COMMISSION. (a) To promote the general public welfare, the commissioners court of a county by order may:

(1) establish a planning commission under this section; and

(2) abolish a planning commission established under this section.

(b) The commissioners court may authorize the planning commission to act on behalf of the commissioners court in matters relating to:

(1) the duties and authority of the commissioners court under Subchapter A, B, or C; and

(2) land use, health and safety, planning and development, or other enforcement provisions specifically authorized by law.

(c) If the commissioners court establishes a planning commission, the commissioners court by order shall adopt reasonable rules and procedures necessary to administer this subchapter.

(d) This subchapter does not grant a commissioners court or a planning commission the power to regulate the use of property for which a permit has been issued to engage in a federally licensed activity.

Sec. 232.093. APPOINTMENT OF MEMBERS OF PLANNING COMMISSION. (a) The commissioners court may appoint a planning commission consisting of five members. Members are appointed for staggered terms of two years.

(b) A person appointed as a member of the planning commission must be a citizen of the United States and reside in the county.

(c) The commissioners court shall file with the county clerk a certificate of appointment for each commission member.

(d) The commissioners court shall fill any vacancy on the commission.

(e) Before a planning commission member undertakes the duties of the office, the member must:

(1) take the official oath; and

(2) swear in writing that the member will promote the interest of the county as a whole and not only a private interest or the interest of a special group or location in the county.

(f) A member of the planning commission serves at the pleasure of the commissioners court and is subject to removal as provided by Chapter 87.

Sec. 232.094. FINANCIAL DISCLOSURE. (a) A member of the planning commission shall file a financial disclosure report in the same manner as required for county officers under Subchapter B, Chapter 159.

(b) If the commissioners court of the county in which the planning commission member serves has not adopted a financial disclosure reporting system under Subchapter B, Chapter 159, the planning commission member shall file a financial disclosure report in the same manner as required for county officers under Subchapter A, Chapter 159.

Sec. 232.095. OFFICERS, QUORUM, AND MEETINGS. (a) At the first meeting of each calendar year, the planning commission shall elect a presiding officer and assistant presiding officer. The presiding officer presides over the meetings and executes all documentation required on behalf of the planning commission. The assistant presiding officer represents the presiding officer during the presiding officer's absence.

(b) There is no limitation on the number of terms a member may serve on the commission.

(c) Minutes of the planning commission's proceedings must be filed with the county clerk or other county officer or employee designated by the commissioners court. The minutes of the planning commission's proceedings are a public record.

(d) The planning commission is subject to Chapters 551 and 552, Government Code.

(e) The planning commission may adopt rules necessary to administer this subchapter. Rules adopted under this subsection are subject to approval by the commissioners court.

Sec. 232.096. TIMELY APPROVAL OF PLATS. (a) The planning commission shall issue a written list of the documentation and other information that must be submitted with a plat application. The documentation or other information must relate to a requirement authorized by law. An application submitted to the planning commission that contains the documents and other information on the list is considered complete.

(b) If a person submits an incomplete plat application to the planning commission, the planning commission or its designee shall, not later than the 15th business day after the date the planning commission or its designee receives the application, notify the applicant of the missing documents or other information. The planning commission or its designee shall allow an applicant to timely submit the missing documents or other information.

(c) An application is considered complete on the date all documentation and other information required by Subsection (a) is received by the planning commission.

(d) If the approval of the plat is within the exclusive jurisdiction of the planning commission, the planning commission shall take final action on a plat application, including the resolution of all appeals, not later than the 60th day after the date a completed plat application is received by the planning commission.

(e) The time period prescribed by Subsection (d) may be extended for:

(1) a reasonable period if requested by the applicant; and

(2) an additional 60 days if the county is required under Chapter 2007, Government Code, to perform a takings impact assessment in connection with a plat submitted for approval.

(f) The planning commission may not compel an applicant to waive the time limits prescribed by this section.

(g) If the planning commission fails to take final action on the completed plat application as required by this section, the applicant may apply to a district court in the county in which the land is located for a mandamus order to compel the planning commission to approve or disapprove the plat. A planning commission subject to a mandamus order under this subsection shall make a decision approving or disapproving the plat not later than the 20th business day after the date a copy of the mandamus order is served on the presiding officer of the planning commission. If the planning commission approves the plat, the planning commission, within the 20-day period prescribed by this subsection, shall:

(1) refund the greater of the unexpended portion of any plat application fee or deposit or 50 percent of a plat application fee or deposit that has been paid;

(2) determine the appropriate amount of any bond or other financial guarantee required in connection with the plat approval; and

(3) issue documents recognizing the plat's approval.

(h) Except as provided by this subsection, an approval of a plat by the planning commission is final on the 31st day after the date the planning commission votes to approve the plat. On the request of a county commissioner, the commissioners court shall review a plat approved by the planning commission not later than the 30th day after the date the planning commission votes to approve the plat. The commissioners court may disapprove the plat if the plat fails to comply with state law or rules adopted by the county or the planning commission. If the commissioners court fails to take action within the 30-day period prescribed by this subsection, the decision of the planning commission is final.

(i) In this section, "business day" means a day other than a Saturday, Sunday, or holiday recognized by this state.

Sec. 232.097. REASONS FOR DISAPPROVAL OF PLAT REQUIRED. If the planning commission refuses to approve a plat, the planning commission shall provide to the person requesting approval a notice specifying the reason for the disapproval.

SECTION 26. Subsections (a) and (c), Section 242.001, Local Government Code, are amended to read as follows:

(a) This section applies only to a county operating under Sections 232.001-232.005 or Subchapter B or C, Chapter 232.

(c) In the extraterritorial jurisdiction of a municipality, the municipality may regulate subdivisions under Subchapter A of Chapter 212 and other statutes applicable to municipalities, and the county may regulate subdivisions under Sections 232.001-232.005, Subchapter B or C, Chapter 232, and other statutes applicable to counties. If a municipal regulation conflicts with a county regulation, the more stringent provisions prevail.

SECTION 27. Subsection (d), Section 12.002, Property Code, is amended to read as follows:

(d) Except in the case of a subdivision located in a county to which Subchapter B, Chapter 232 [~~an "affected county," as defined by Section 232.021~~], Local Government Code, applies. Subsection (c) does not apply to using a subdivision's description in a contract to convey real property before the plat or replat of the subdivision is approved and is filed for record with the county clerk if:

(1) the conveyance is expressly contingent on approval and recording of the final plat; and

(2) the purchaser is not given use or occupancy of the real property conveyed before the recording of the final plat.

SECTION 28. Subchapter D, Chapter 5, Water Code, is amended by adding Section 5.124 to read as follows:

Sec. 5.124. AUTHORITY TO AWARD GRANTS. (a) With the consent of the commission, the executive director may award grants for any purpose regarding resource conservation or environmental protection in accordance with this section.

(b) The commission by rule shall establish procedures for awarding a grant, for making any determination related to awarding a grant, and for making grant payments.

(c) Each activity funded by a grant must directly relate to a purpose specified in the grant. A grant may be awarded only for a purpose consistent with the commission's jurisdiction and purposes under law, including:

(1) the development or implementation of a comprehensive conservation and management plan under Section 320, Federal Water Pollution Control Act (33 U.S.C. Section 1330), for a designated national estuary in this state;

(2) a demonstration project that involves new techniques for pollution prevention, energy or resource conservation, or waste management;

(3) an environmental purpose identified in a federal grant that is intended as a pass-through grant;

(4) development or improvement of monitoring or modeling techniques for water or air quality;

(5) support of a local air pollution program; or

(6) a study or program related to efforts to prevent an area that is near nonattainment with federal air quality standards from reaching nonattainment status.

(d) A grant may be awarded to any person that meets the eligibility requirements of the grant. The executive director shall establish eligibility requirements for each grant appropriate to the purposes of and activities under the grant and the method of selecting the recipient.

(e) Selection of grant recipients must be by solicitation of a proposal or application except as provided by Subsections (f) and (g). The executive director may specify any selection criterion the executive director considers relevant to the grant. Selection criteria must address:

(1) evaluation and scoring of:

(A) fiscal controls;

(B) project effectiveness;

(C) project cost; and

(D) previous experience with grants and contracts; and

(2) the possibility and method of making multiple awards.

(f) A grant may be made by direct award only if:

(1) the executive director determines that:

(A) selection of recipients by the solicitation of proposals or applications is not feasible; and

(B) awarding the grant directly is in the best interest of the state;

(2) eligibility for the grant is limited to:

(A) an agency or political subdivision of this state or of another state;

(B) a state institution of higher learning of this state or of another state, including any part or service of the institution; or

(C) an agency of the United States; or

(3) the grant is awarded to a person established or authorized to develop or implement a comprehensive conservation and management plan under Section 320, Federal Water Pollution Control Act (33 U.S.C. Section 1330), for a national estuary in this state.

(g) If a solicitation of a proposal is made for the purpose of identifying a partner for a joint application for a federal grant that is subsequently awarded to the commission, the executive director is not required to make an additional solicitation for entering into a pass-through grant with an identified partner.

(h) The executive director shall publish information regarding a solicitation related to a grant to be awarded under this section on the commission's electronic business daily in the manner provided by Section 2155.074, Government Code, as added by Section 1, Chapter 508, Acts of the 75th Legislature, Regular Session, 1997.

(i) For a grant awarded under this section, the commission may use:

(1) money appropriated for grant-making purposes;

(2) federal money granted for making pass-through grants; and

(3) state or federal grant money appropriated for a purpose that the executive director determines is consistent with a purpose of the grant from the commission.

SECTION 29. Subdivision (26), Section 13.002, Water Code, is amended to read as follows:

(26) "Affected county" is a county to which Subchapter B, Chapter 232 [has the meaning assigned by Section 232.021], Local Government Code, applies.

SECTION 30. Section 13.241, Water Code, is amended by adding Subsection (e) to read as follows:

(e) The commission by rule shall develop a standardized method for determining under Section 13.246(f) which of two or more retail public utilities or water supply or sewer service corporations that apply for a certificate of public convenience and necessity to provide water or sewer utility service to an uncertificated area located in an economically distressed area is more capable financially, managerially, and



technically of providing continuous and adequate service. In this subsection, "economically distressed area" has the meaning assigned by Section 15.001.

SECTION 31. Section 13.246, Water Code, is amended by amending Subsection (e) and adding Subsections (f) and (g) to read as follows:

(e) Where applicable, in addition to the other factors in this section the commission shall consider the efforts of the applicant:

(1) to extend service to any economically distressed areas located within the service areas certificated to the applicant; and

(2) to enforce the rules adopted under Section 16.343. [~~For the purposes of this subsection, "economically distressed area" has the meaning assigned by Section 15.001.~~]

(f) If two or more retail public utilities or water supply or sewer service corporations apply for a certificate of public convenience and necessity to provide water or sewer utility service to an uncertificated area located in an economically distressed area and otherwise meet the requirements for obtaining a new certificate, the commission shall grant the certificate to the retail public utility or water supply or sewer service corporation that is more capable financially, managerially, and technically of providing continuous and adequate service.

(g) In this section, "economically distressed area" has the meaning assigned by Section 15.001.

SECTION 32. Section 15.407, Water Code, is amended by adding new Subsections (c) and (d), relettering existing Subsections (c), (d), (e), (f), and (g) as Subsections (e), (f), (g), (h), and (i), and adding Subsection (j) to read as follows:

(c) The selection process used by a political subdivision to procure engineering services necessary for facility engineering is subject to review by and approval of the executive administrator. The executive administrator may assist a political subdivision in the selection of the provider of engineering services necessary for facility engineering in economically distressed areas.

(d) The board shall adopt rules governing the procurement of facility engineering services by a political subdivision awarded funds under this subchapter and may adopt other rules necessary to carry out the board's powers and duties under this subchapter.

(e) A political subdivision that desires money from the research and planning fund for facility engineering in an economically distressed area shall submit a written application to the board in the manner and form required by board rules.

~~(f)~~ (f) The application shall include:

(1) the name of the political subdivision;

(2) a citation to the laws under which the political subdivision was created and is operating;

(3) the amount requested from the board for facility engineering in an economically distressed area; and

(4) any other information required by the board in its rules or specifically requested by the board.

~~(g)~~ (g) After notice and hearing, the board may award the applicant all or part of the requested funds that are considered necessary by the board for the political subdivision to carry out adequate facility engineering in an economically distressed area.

~~(h)~~ (h) If the board grants an application under this section and awards funds for facility engineering in an economically distressed area, the board shall enter into a contract with the political subdivision that includes:

- (1) a detailed statement of the purpose for which the money is to be used;
- (2) the total amount of money to be paid from the research and planning fund under the contract; and
- (3) any other terms and conditions required by board rules or agreed to by the contracting parties.

(i) ~~(g)~~ If, after submission of an application under this section, a county has an increase in average per capita income or a decrease in unemployment rate average so that the county no longer meets the definition of an affected county in Section 16.341, the political subdivision that submits the application continues to be eligible for the funds under this section, and the board shall process the application for facility engineering and, if the application is approved, shall provide funds for the facility engineering plan to the political subdivision.

(j) If the board determines that planning activities undertaken by a political subdivision for which the board has committed funds under this subchapter have been inadequate or not completed in a timely manner, the board may terminate the contract with the political subdivision and on behalf of and in consultation with the political subdivision may perform or contract for facility engineering in the economically distressed area.

SECTION 33. Section 16.341(2), Water Code, is amended to read as follows:

(2) "Economically distressed area" means an area in which:

(A) water supply or sewer services are inadequate to meet minimal needs of residential users as defined by board rules;

(B) financial resources are inadequate to provide water supply or sewer services that will satisfy those needs; and

(C) an established residential subdivision was located [80 percent of the dwellings covered by an application for funds or financial assistance were occupied] on June 1, 1989, as determined by the board.

SECTION 34. Subsection (a), Section 16.343, Water Code, is amended to read as follows:

(a) The ~~board [Texas Natural Resource Conservation Commission]~~ shall, ~~[in conjunction with the board and]~~ after consultation with the attorney general and the commission, prepare and adopt model rules to assure that minimum standards for safe and sanitary water supply and sewer services in residential areas of political subdivisions, including rules of any state agency relating to septic tanks and other waste disposal systems, are met.

SECTION 35. Subsection (b), Section 16.345, Water Code, is amended to read as follows:

(b) In addition to any other authority to issue bonds or other obligations or incur any debt, an affected county or another [a] political subdivision, other than a nonprofit water supply corporation, eligible for financial assistance under Subchapter K, Chapter 17, of this code may issue bonds payable from and secured by a pledge of the revenues derived or to be derived from the operation of water supply or sewer service systems for the purpose of acquiring, constructing, improving, extending, or repairing water supply or sewer facilities. The bonds shall be issued in accordance with and an affected county or another [a] political subdivision may exercise the powers granted by: Articles 1111 through 1118, Revised Statutes; Chapters 249 and 250, Acts of the 51st Legislature, Regular Session, 1949 (Articles 1111a and 1111b, Vernon's Texas Civil Statutes); Chapter 428, Acts of the 52nd Legislature, 1951 (Article 1111c,

Vernon's Texas Civil Statutes); Chapter 122, Acts of the 43rd Legislature, Regular Session, 1933 (Articles 1114a, 1114b, and 1114c, Vernon's Texas Civil Statutes); and Chapter 56, Acts of the 45th Legislature, 2nd Called Session, 1937 (Article 1114d, Vernon's Texas Civil Statutes); by the Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes); by Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes); and by other laws of the state.

SECTION 36. Subchapter J, Chapter 16, Water Code, is amended by adding Sections 16.352, 16.353, 16.3535, 16.354, and 16.3545 to read as follows:

Sec. 16.352. ENFORCEMENT OF RULES. A person who violates a rule adopted by a municipality or county under this subchapter or under Subchapter B or C, Chapter 232, Local Government Code, is liable to the municipality or county for a civil penalty of not less than \$500 and not more than \$1,000 for each violation and for each day of a violation. The maximum civil penalty that may accrue each day is \$5,000. The appropriate attorney representing the municipality or county may sue to collect the penalty. The recovered penalty shall be deposited in the general fund of the municipality or county.

Sec. 16.353. INJUNCTION. (a) In addition to any other remedy, the attorney general, the municipal attorney of the municipality in which a violation under Section 16.352 occurs, or the county or district attorney of the county in which a violation under Section 16.352 occurs may apply to a district court for, and the district court may grant, the state or the political subdivision an appropriate prohibitory or mandatory order, including a temporary restraining order or a temporary or permanent injunction, enjoining a violation of this subchapter, the rules described by Section 16.352, or Subchapter B or C, Chapter 232, Local Government Code.

(b) An injunction issued under this section may be issued without the requirement of a bond or other undertaking.

Sec. 16.3535. DAMAGES. In addition to any other remedy, the attorney general, the municipal attorney of the municipality in which a violation under Section 16.352 occurs, or the county or district attorney of the county in which a violation under Section 16.352 occurs may apply to a district court for, and the district court may grant, monetary damages to cover the cost of enforcing this subchapter, rules adopted under this subchapter, or Subchapter B or C, Chapter 232, Local Government Code.

Sec. 16.354. ATTORNEY GENERAL ENFORCEMENT. In addition to the ability of any political subdivision to enforce this subchapter, the attorney general may file suit to:

- (1) enforce a rule adopted under Section 16.350;
- (2) recover a civil penalty under Section 16.352;
- (3) obtain injunctive relief under Section 16.353;
- (4) recover damages under Section 16.3535;
- (5) enforce a political subdivision's rules, recover any penalty, recover any damages, and obtain any injunctive relief; or
- (6) recover attorney's fees, investigative costs, and court costs.

Sec. 16.3545. VENUE. A suit brought under this subchapter for injunctive relief or the recovery of a civil penalty or damages may be brought in a district court in:

- (1) the county in which the defendant resides;
- (2) the county in which the alleged violation or threat of violation occurs; or
- (3) Travis County.

SECTION 37. Subchapter J, Chapter 16, Water Code, is amended by adding Section 16.356 to read as follows:

Sec. 16.356. USE OF REVENUE FROM OPERATION OF WATER SUPPLY OR SEWER SERVICE PROJECTS. (a) A political subdivision that receives financial assistance from the economically distressed areas program under Subchapter K, Chapter 17, may not use any revenue received from fees collected from a water supply or sewer service constructed in whole or in part from funds from the economically distressed areas program account for purposes other than utility purposes. The annual financial statement prepared by a municipality under Section 103.001, Local Government Code, must include a specific report on compliance with this section.

(b) At the request of the board or on the attorney general's own initiative, the attorney general may file suit to enjoin an actual or threatened violation of this section.

SECTION 38. Section 17.921(1), Water Code, is amended to read as follows:

(1) "Economically distressed area" means an area in which:

(A) water supply or sewer services are inadequate to meet minimal needs of residential users as defined by board rules;

(B) financial resources are inadequate to provide water supply or sewer services that will satisfy those needs; and

(C) ~~an established residential subdivision was located [the percentage of the dwellings occupied] on June 1, 1989, as determined by the board [to be served by financial assistance under this subchapter was at least:~~

~~[(i) 80 percent; or~~

~~[(ii) 50 percent, if the services provided by financial assistance under this subchapter can be provided by common or regional facilities in a cost-effective manner in conjunction with service provided to an economically distressed area as determined under the other provisions of this subdivision].~~

SECTION 39. Subsection (b), Section 17.927, Water Code, is amended to read as follows:

(b) The application and plan must:

(1) comply with board requirements;

(2) describe in detail the method for delivering water supply and sewer services and the persons to whom the services will be provided;

(3) describe the method for complying with minimum state standards for water supply and sewer services adopted by the board under Section 16.342 of this code;

(4) include a budget that estimates the total cost of providing water supply and sewer services to the economically distressed area and a proposed schedule and method for repayment of financial assistance consistent with board rules and guidelines;

(5) describe existing water supply and sewer facilities located in the economically distressed area and include with the description:

(A) the county map required by Section 366.036, Health and Safety Code; or

(B) a document prepared and certified by an engineer registered to practice in this state describing the plan for providing water supply and sewer services to the economically distressed area;

(6) provide proof that the appropriate political subdivision has adopted the model rules developed under Section 16.343 of this code;

(7) include information on the ability of potential customers to pay for the services provided by the project including composite data prepared by the applicant pursuant to board rules and guidelines from surveys of those potential customers covering income, family size, personal expenses, employment status, and other information required by board rule;

(8) include an estimate of the per household cost of providing the services contemplated by the project with supporting data;

(9) describe the procedures to be used to collect money from residents who use the proposed water supply and sewer services including procedures for collection of delinquent accounts;

(10) include a requirement that a contractor who agrees to acquire, construct, extend, or provide water supply and sewer services executes a performance bond in the amount of 100 percent of the contract price;

(11) contain an agreement to comply with applicable procurement procedures in contract awards for water supply and sewer services;

(12) if located in the service area of a retail public utility or public utility that has a certificate of public convenience and necessity under Chapter 13 of this code, include a document in the form of an affidavit signed by the chief executive officer of the utility, which shall cooperate with the political subdivision, stating that the utility does not object to the construction and operation of the services and facilities in its service area;

(13) include a map of the economically distressed area together with supporting information relating to dwellings in the area;

(14) describe in detail the methods for incorporating water conservation into the provision of water and sewer services to the economically distressed area; ~~and~~

(15) include, on request of the board, a written determination by the commission on the managerial, financial, and technical capacity of the applicant to operate the system for which assistance is being requested; and

(16) include any other information required by the board.

SECTION 40. Subsections (b) and (c), Section 17.930, Water Code, are amended to read as follows:

(b) After making the considerations provided by Section 17.929 of this code, the board by resolution shall:

(1) approve ~~or disapprove~~ the plan and application as submitted;

(2) approve the plan and application subject to the requirements identified by the commission for the applicant to obtain the managerial, financial, and technical capacity to operate the system and any other requirements the board considers appropriate;

(3) deny the application and identify the requirements or remedial steps the applicant must complete before the applicant may be reconsidered for financial assistance;

(4) if the board finds that the applicant will be unable to obtain the managerial, financial, or technical capacity to build and operate a system, deny the application and issue a determination that a service provider other than the applicant is necessary or appropriate to undertake the proposed project; or

(5) deny the application.

(c) The board ~~and~~ shall notify the applicant in writing of its decision.

(d) [(e)] The board may require the applicant to provide local funds in an amount approved by the board under this subchapter, and the board shall provide the remaining funds from the economically distressed areas account.

SECTION 41. Section 17.933(b), Water Code, is amended to read as follows:

(b) In providing financial assistance to an applicant under this subchapter, the board may not provide to the applicant financial assistance for which repayment is not required in an amount that exceeds 50 percent of the total amount of the financial assistance plus interest on any amount that must be repaid, unless the Texas Department of Health [commission] issues a finding that a nuisance dangerous to the public health and safety exists resulting from water supply and sanitation problems in the area to be served by the proposed project. The board and the applicant shall provide to the Texas Department of Health [commission] information necessary to make a determination, and the board and the Texas Department of Health [commission] may enter into necessary memoranda of understanding to carry out this subsection.

SECTION 42. Subdivision (20), Section 26.001, Water Code, as added by Section 23, Chapter 979, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

(20) "Affected county" is a county to which Subchapter B, Chapter 232 [has the meaning assigned by Section 232.021], Local Government Code, applies.

SECTION 43. Subdivision (26), Section 26.001, Water Code, as added by Section 24, Chapter 979, Acts of the 74th Legislature, Regular Session, 1995, is amended to read as follows:

(26) "Affected county" is a county to which Subchapter B, Chapter 232 [has the meaning assigned by Section 232.021], Local Government Code, applies.

SECTION 44. Title 7, Government Code, is amended by adding Chapter 775 to read as follows:

#### CHAPTER 775. COORDINATION OF COLONIA INITIATIVES

Sec. 775.001. DEFINITIONS. In this chapter:

(1) "Agency" means a state office, institution, or other state governmental entity.

(2) "Colonia" means a geographic area that:

(A) is an economically distressed area as defined by Section 17.921, Water Code; and

(B) is located in a county any part of which is within 50 miles of an international border.

Sec. 775.002. INTERAGENCY COORDINATION OF COLONIA INITIATIVES. (a) The governor may designate an agency to act as the state's colonia initiatives coordinator.

(b) If appointed under Subsection (a), the colonia initiatives coordinator shall coordinate colonia initiatives within the agency and with the other agencies and local officials involved in colonia projects in the state.

(c) The colonia initiatives coordinator may work with the other agencies and local officials involved in colonia projects in the state to:

(1) coordinate efforts to address colonia issues;

(2) identify nonprofit self-help groups to help with colonia initiatives;

(3) set goals for each state fiscal year for colonia initiatives in the state, including goals to:

(A) address easement problems; and  
(B) ensure that water and wastewater connections are extended from distribution lines to houses located in colonias; and  
(4) ensure that the goals set under this subsection are met each state fiscal year.

(d) The following agencies shall designate an officer or employee of the agency to serve as the agency's liaison for colonia initiatives:

- (1) the office of the attorney general;
- (2) the Texas Department of Health;
- (3) the Texas Department of Housing and Community Affairs;
- (4) the Texas Natural Resource Conservation Commission; and
- (5) the Texas Water Development Board.

(e) Each agency's liaison for colonia initiatives under Subsection (d) must be a deputy executive director or a person of equivalent or higher authority at the agency. This subsection does not authorize the creation of a new position for colonia coordination at a state agency.

Sec. 775.003. COLONIA OMBUDSMAN PROGRAM. The colonia initiatives coordinator may appoint a colonia ombudsman in each of the six border counties that the coordinator determines have the largest colonia populations.

SECTION 45. Section 3, The Plumbing License Law (Article 6243-101, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 3. ACTS PERMITTED WITHOUT A LICENSE. (a) The following acts, work and conduct shall be expressly permitted without license:

(1) [~~(a)~~] Plumbing work done by a property owner in a building owned or occupied by him as his homestead;

(2) [~~(b)~~] Plumbing work done outside the municipal limits of any organized city, town or village in this state, or within any such city, town or village of less than five thousand (5,000) inhabitants, unless required by ordinance in such city, town or village of less than five thousand (5,000) inhabitants;

(3) [~~(c)~~] Plumbing work done by anyone who is regularly employed as or acting as a maintenance man or maintenance engineer, incidental to and in connection with the business in which he is employed or engaged, and who does not engage in the occupation of a plumber for the general public; construction, installation and maintenance work done upon the premises or equipment of a railroad by an employee thereof who does not engage in the occupation of a plumber for the general public; and plumbing work done by persons engaged by any public service company in the laying, maintenance and operation of its service mains or lines to the point of measurement and the installation, alteration, adjustment, repair, removal and renovation of all types of appurtenances, equipment and appliances, including doing all that is necessary to render the appliances useable or serviceable; appliance installation and service work done by anyone who is an appliance dealer or is employed by an appliance dealer, and acting as an appliance installation man or appliance service man in connecting appliances to existing piping installations; water treatment installations, exchanges, services, or repairs. Provided, however, that all work and service herein named or referred to shall be subject to inspection and approval in accordance with the terms of all local valid city or municipal ordinances;

(4) [~~(d)~~] Plumbing work done by an [a-licensed] irrigator licensed under Chapter 34, Water Code, or an [licensed] installer licensed under Chapter 33, Water

~~Code [when working and licensed under Chapter 197, Acts of the 66th Legislature, Regular Session, 1979 (Article 8751, Vernon's Texas Civil Statutes)].~~ A person holding a valid license from the Texas State Board of Plumbing Examiners shall not be required to be licensed by any other board or agency when installing or working on a lawn irrigation system;

(5) ~~[(e)]~~ Plumbing work done by an LP Gas installer when working and licensed under Chapter 113, Natural Resources Code, as amended;

(6) Plumbing work, limited to the provision of a residential potable water supply or residential sanitary sewer connections, for a project in a geographic area that is located in a county any part of which is within 50 miles of an international border that is done by an organization that:

(A) is certified by the Texas Natural Resource Conservation Commission to provide "self-help" project assistance; and

(B) provides the board with the following information before the 30th day before the date the project begins:

(i) a specific project location;

(ii) the intended duration of the project; and

(iii) other information the board may require.

(b) Any failure by an organization to meet the requirements of Subsection (a)(6) of this section, including the requirement to obtain certification from the Texas Natural Resource Conservation Commission under Subsection (a)(6)(A) of this section or the requirement to provide a report to the board under Subsection (a)(6)(B) of this section:

(1) invalidates the exception granted under Subsection (a)(6) of this section for the plumbing work performed by that organization in relation to the specific project on which the plumbing work is performed; and

(2) makes any unlicensed individual or entity that performs the plumbing work for that project subject to all penalties ordinarily available to the board against an individual or entity that performs plumbing work without a license.

(c) The board may provide training to an organization that provides "self-help" project assistance under Subsection (a)(6) of this section.

SECTION 46. On or before November 1, 1999, the agencies designated by Subsection (d), Section 775.002, Government Code, as added by this Act, shall designate an officer or employee to serve as that agency's colonia initiative liaison as provided by that section.

SECTION 47. (a) The changes in law made by Section 5.124, Water Code, as added by this Act, apply only to a grant made by the Texas Natural Resource Conservation Commission on or after the effective date of this Act and to a grant being considered by the Texas Natural Resource Conservation Commission on the effective date of this Act.

(b) The changes in law made by Section 5.124, Water Code, as added by this Act, do not affect the validity of or apply to a grant the Texas Natural Resource Conservation Commission made before the effective date of this Act.

(c) The Texas Natural Resource Conservation Commission may award a grant that, on the effective date of this Act, is being considered under, or for which a solicitation for proposals has been issued or an application has been received under, authority other than Section 5.124, Water Code, as added by this Act:

(1) under the other authority without regard to the requirements of Section 5.124, Water Code; or



(2) under the authority of Section 5.124, Water Code, notwithstanding that the grant was considered, the solicitation was issued, or the application was received under the other authority.

SECTION 48. The changes in law made by this Act to Sections 13.241 and 13.246, Water Code, apply only to an application for a new certificate of public convenience and necessity filed on or after the effective date of this Act. An application for a new certificate of public convenience and necessity filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and that law is continued in effect for that purpose.

SECTION 49. The changes in law made by this Act to Sections 15.407, 17.927, and 17.930, Water Code, apply only to:

(1) an application for assistance under those provisions that is pending before or submitted to the Texas Water Development Board on or after September 1, 1999; and

(2) a contract under Section 15.407, Water Code, regardless of the date the contract was made.

SECTION 50. (a) The change in law made by this Act by adding Section 16.352, Water Code, applies only to the violation of a rule adopted by a municipality or county under Subchapter J, Chapter 16, Water Code, or Section 232.030, Local Government Code, that occurs on or after the effective date of this Act. For purposes of this section, a violation occurs before the effective date of this Act if any element of the violation occurs before that date.

(b) A violation of a rule adopted by a municipality or county under Subchapter J, Chapter 16, Water Code, or Section 232.030, Local Government Code, that occurs before the effective date of this Act is governed by the law in effect when the violation occurred, and the former law is continued in effect for that purpose.

SECTION 51. The change in law made by Section 16.356, Water Code, as added by this Act, applies only to a political subdivision subject to that section beginning on the first day of the fiscal year of the political subdivision that begins on or after the effective date of this Act.

SECTION 52. This Act takes effect September 1, 1999.

SECTION 53. 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.

### **Floor Amendment No. 1**

Amend **CSSB 1421** in SECTION 45, Section 6(B)(iii), on page 46, line 13 by inserting the following after the word "require":  
", including a post-construction report signed by a plumbing inspector that the plumbing facilities are safe"

### **Floor Amendment No. 2 on Third Reading**

Amend **CSSB 1421**, on third reading, as follows:

(1) In SECTION 2 of the bill, in Sections 212.012(c)(4)(B)(i) and (ii), Local Government Code, strike "1,000" and substitute "750".

(2) In SECTION 9 of the bill, in Sections 232.029(c)(2)(A) and (B), Local Government Code, strike "1,000" and substitute "750".

The amendments were read.

On motion of Senator Lucio, the Senate concurred in the House amendments to **SB 1421** by a viva voce vote.

### SENATE BILL 172 WITH HOUSE AMENDMENT

Senator Harris called **SB 172** from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

#### Amendment

Amend **SB 172** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to a qualified commercial loan.

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

SECTION 1. Article 1H.001(9), Title 79, Revised Statutes (Article 5069-1H.001, Vernon's Texas Civil Statutes), is amended to read as follows:

(9) "Qualified commercial loan":

(A) means:

(i) ~~[(A)]~~ a commercial loan in which one or more persons as part of the same transaction lends, advances, borrows, or receives, or is obligated to lend or advance or entitled to borrow or receive, money or credit with an aggregate value [the original principal amount] of:

(a) \$3,000,000 or more if the commercial loan is secured by real property; or

(b) \$250,000 or more if the commercial loan is not secured by real property and, if the aggregate value of the commercial loan is less than \$500,000, the loan documents contain a written certification from the borrower that:

(1) the borrower has been advised by the lender to seek the advice of an attorney and an accountant in connection with the commercial loan; and

(2) the borrower has had the opportunity to seek the advice of an attorney and accountant of the borrower's choice in connection with the commercial loan; and [or]

(ii) ~~[(B)]~~ a renewal or extension of a commercial loan described by Paragraph (A) [in the original principal amount of \$3,000,000 or more], regardless of [whether] the principal amount of the loan at the time of the [its] renewal or extension; and

(B) does not include a commercial loan made for the purpose of financing a business licensed by the Motor Vehicle Board of the Texas Department of Transportation under Section 4.01(a), Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes) [is \$3,000,000 or more].

SECTION 2. Section 306.001(9), Finance Code, is amended to read as follows:

(9) "Qualified commercial loan":

(A) means:

(i) ~~[(A)]~~ a commercial loan in which one or more persons as part of the same transaction lends, advances, borrows, or receives, or is obligated to lend or advance or entitled to borrow or receive, money or credit with an aggregate value [the original principal amount] of:

(a) \$3 million or more if the commercial loan is secured by real property; or

(b) \$250,000 or more if the commercial loan is not secured by real property and, if the aggregate value of the commercial loan is less than \$500,000, the loan documents contain a written certification from the borrower that:

(1) the borrower has been advised by the lender to seek the advice of an attorney and an accountant in connection with the commercial loan; and

(2) the borrower has had the opportunity to seek the advice of an attorney and accountant of the borrower's choice in connection with the commercial loan; and ~~or~~

(ii) ~~(B)~~ a renewal or extension of a commercial loan described by Paragraph (A) ~~[in the original principal amount of \$3 million or more]~~, regardless of ~~[whether]~~ the principal amount of the loan at the time of the renewal or extension; and

(B) does not include a commercial loan made for the purpose of financing a business licensed by the Motor Vehicle Board of the Texas Department of Transportation under Section 4.01(a), Texas Motor Vehicle Commission Code (Article 4413(36), Vernon's Texas Civil Statutes) ~~[when renewed or extended is \$3 million or more]~~.

SECTION 3. (a) Section 1 of this Act takes effect immediately on passage.

(b) Section 2 of this Act takes effect and Section 1 of this Act is repealed September 1, 1999, only if the Act of the 76th Legislature, Regular Session, 1999, relating to nonsubstantive additions to and corrections in enacted codes takes effect.

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.

The amendment was read.

Senator Harris moved to concur in the House amendment to **SB 172**.

The motion prevailed by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

#### CONFERENCE COMMITTEE ON HOUSE BILL 819

Senator Moncrief called from the President's table, for consideration at this time, the request of the House for a conference committee to adjust the differences between the two Houses on **HB 819** and moved that the request be granted.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on **HB 819** before appointment.

There were no motions offered.

Accordingly, the President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Moncrief, Chair; Ellis, Harris, Wentworth, and Nelson.

## SENATE BILL 928 WITH HOUSE AMENDMENTS

Senator Ratliff called **SB 928** from the President's table for consideration of the House amendments to the bill.

The President laid the bill and the House amendments before the Senate.

### Amendment

Amend **SB 928** by substituting in lieu thereof the following:

#### A BILL TO BE ENTITLED AN ACT

relating to directing payment, after approval, of certain miscellaneous claims and judgments against the state out of funds designated by this Act; making appropriations.

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

SECTION 1. The following sums of money are appropriated out of the General Revenue Fund No. 0001 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay Roosevelt Charles Thomas for a void warrant	\$1,044.08
To pay Griffith-Stroud Construction & Leasing Company for void warrants for refund of overpayment of franchise tax	\$67.97
To pay Midland Southwestern Livestock Auction, Inc., for void warrants for veterinary services	\$1,332.00
To pay Cude, Inc., care of Nelson-Brown Equities, Inc., for a void warrant for franchise tax refund	\$2,130.32
To pay Cheryl A. Monroe for a void warrant for salary	\$58.43
To pay Big Bend Radiological Associates for a radiological exam	\$19.00
To pay Northwest Rehabilitation Center for workers' compensation services	\$543.52
To pay Laura Schleicher for a void warrant for unclaimed property from Scurlock Oil	\$889.63
To pay David R. Webb, M.D., for x-rays	\$56.00
To pay H. W. Thomas, Jr., M.D., for medical records	\$15.00
To pay Metro Mobile Courts of El Paso, Inc., for a void warrant	\$18,479.64
To pay Dictaphone Corporation, care of Nelson-Brown Equities, Inc., for a void warrant for franchise tax refund	\$4,658.77
To pay Texas Home Health of America, Inc., for social services	\$3,468.61
To pay Texas Home Health of America, Inc., for social services	\$502.26
To pay Texas Home Health of America, Inc., for social services	\$421.08
To pay Orthopaedic & Hand Center for workers' compensation services	\$15.50
To pay Victor Gonzalez, M.D., for office visits and electrocardiogram	\$172.00
To pay the estate of Charles H. Shaper, care of Steve Shaper, executor, for a void warrant for overpayment of inheritance tax	\$428.00
To pay Badger Engineers, Inc., care of Nelson-Brown Equities, Inc., for a void warrant for overpayment of sales tax	\$2,389.66
To pay Texas Department of Criminal Justice-Texas Correctional Industries for contour backup belts	\$41.90
To pay Texas Department of Criminal Justice-Texas Correctional Industries for cardboard boxes	\$157.83

To pay Texas Department of Criminal Justice-Texas Correctional Industries for desk and accessories	\$1,029.00
To pay Yolanda Martinez for a void warrant for housekeeping services (San Antonio State School #650)	\$68.12
To pay Stephen L. Wilson for an orthopedic and x-ray exam	\$156.00
To pay Paul K. Riley for void warrants for travel partial per diem	\$55.68
To pay Angie Zapata for workers' compensation benefits	\$32.00
To pay Ernesto R. Hernandez for void warrants for overpayment of sales taxes	\$1,155.44
To pay Belvie J. Price for a void warrant for workers' compensation benefits	\$234.44
To pay Starr County Memorial Hospital for workers' compensation services	\$22.83
To pay Waco Orthopedic Clinic for x-rays	\$106.00
To pay Mantai Lam, M.D., for internal medicine, exams, and electrocardiograms for several patients	\$1,246.00
To pay W. R. Biles & Associates, Inc., for void warrants for sales tax overpayments	\$119.34
To pay W. R. Biles & Associates, Inc., for void warrants for sales tax overpayments	\$428.94
To pay Estella Quintero for workers' compensation benefits	\$327.60
To pay Carolyn F. Rosemond for a void warrant for travel reimbursement	\$11.51
To pay Estella Quintero for workers' compensation benefits	\$218.40
To pay Denton Imaging, Inc., for workers' compensation services	\$997.00
To pay USAA Investment Management Company for a void warrant for overpayment of franchise tax	\$7,005.00
To pay G. S. Transport, Inc., for a void warrant for overpayment of fuel taxes	\$9,765.30
To pay Loren D. Fleckenstein, M.D., for workers' compensation services	\$36.87
To pay Sunrise Unlimited, Inc., doing business as Sunrise Imaging, for workers' compensation services	\$850.00
To pay Phillip Cook, D.C., for workers' compensation services	\$388.00
To pay Dr. Phillip Cook for workers' compensation service	\$49.60
To pay Bend Landscaping, Inc., for a void warrant for franchise tax overpayment	\$839.85
To pay Holy Cross Family Practice for a copy of medical records	\$15.00
To pay Robert L. Stroud, M.D., for an exam and electrocardiogram	\$152.00
To pay Carl Sutherland for a void warrant for unclaimed property	\$513.00
To pay Oxford House, Inc., for recovery house loan for March 1994 through April 1994, September 1994 through November 1994, and January 1995 through August 1995	\$63,002.88
To pay Dynasty Transportation, Inc., for a void warrant for refund for overpayment of tax	\$2,958.30
To pay Manuel Guerra for workers' compensation benefits	\$1,147.50
To pay General Electric Environmental Services, care of GE Company, for a void warrant for overpayment of franchise tax	\$3,990.14

To pay Leaseamerica Corporation, doing business as LAC Services, Inc., for a void warrant for overpayment of franchise tax	\$3,300.89
To pay General Electric Capital Corporation, care of GE Company, for a void warrant for overpayment of county sales tax	\$30.24
To pay Ellco Leasing Corporation, care of GE Company, for a void warrant for overpayment of county sales tax	\$205.73
To pay Elma Ramirez for workers' compensation benefits	\$3,602.10
To pay the estate of Donald M. Hasty for void warrants for salary	\$5,074.70
To pay Austin Diagnostic Clinic for medical services for Austin State Hospital #677	\$99.34
To pay Drib Farms, Inc., for a void warrant for franchise tax refund	\$21.41
To pay Javier Garcia for a void warrant for refund of handicap modifications done to vehicle	\$1,434.22
To pay Martin R. Perez for workers' compensation benefits	\$565.54
To pay Pepsico, Inc., for a void warrant for franchise tax refund	\$2,203.24
To pay Benny P. Fisher for workers' compensation benefits	\$12,751.00
To pay Virgie L. Bryant for a void warrant for payroll	\$1,689.92
To pay United Regional Health Care System for hospital bill for Wichita Falls State Hospital #683 Patient	\$122,413.97
To pay Dolly Vinsant Memorial Hospital for copies of medical records	\$12.50
To pay Peggy J. Jordan, guardian for Chesley & Emily Jordan, for workers' compensation fatality death benefits	\$27,084.50
To pay Gunter Hotel Associates, care of Nelson-Brown Equities, Inc., for a void warrant for refund of state sales tax	\$2,725.68
To pay Gunter Hotel Associates, care of Nelson-Brown Equities, Inc., for a void warrant for refund of metropolitan transit authority tax	\$2,291.52
To pay Southern Bone & Joint for medical services	\$15.00
To pay Pauline A. Clansy for a psychological exam	\$106.00
To pay PIC Realty Corporation for a void warrant for refund of franchise tax	\$26,680.50
To pay Intelligent Environments for a void warrant for foreign corporation franchise guaranty trust refund	\$500.00
To pay Joseph M. Trusheim for a void warrant for unclaimed property	\$380.50
To pay Helen Black for travel for February 1, 1993, through February 28, 1993	\$167.44
To pay Helen Black for travel for February 2, 1994, through March 30, 1994	\$252.00
To pay Orthopaedic Hand Center of El Paso for medical reports	\$15.00
To pay Alfredo Ramirez for travel for January 1, 1993, through December 31, 1993	\$774.27
To pay National Heritage Insurance Company for medical assistance program	\$89,949.57
To pay National Heritage Insurance Company for medical assistance program	\$68,364.87
To pay Sherwyn Schwarts, M.D., Diabetes & Glandular Diseases, for a void warrant for unclaimed property	\$1,875.50
To pay Dalca Corporation for a void warrant for franchise tax refund	\$108.43
To pay Anne Crean for a void warrant for overtime pay	\$2,622.27

To pay GTE North, Inc., care of Parr Recovery, Inc., for a void warrant for franchise tax refund	\$500.00
To pay GTE Southwest, Inc., care of Parr Recovery, Inc., for a void warrant for overpayment of city sales tax	\$527.72
To pay GTE Data Services, Inc., care of Parr Recovery, Inc., for a void warrant for refund of city sales tax	\$325.10
To pay GTE Communication Systems Corporation, care of Parr Recovery, Inc., for a void warrant for refund of metropolitan transit authority tax	\$1,837.26
To pay El Paso Orthopaedic Associates for medical records	\$15.00
To pay Parkview Medical Center for workers' compensation	\$36.79
To pay Rosemary Jasso-Marin for workers' compensation benefits	\$4,613.58
To pay Nolan Oil Company, Inc., care of Joel Truett Nolan, for a void warrant for overpayment of taxes	\$991.50
To pay HEB Food Stores #089 for a void warrant for various food items (Kerrville State Hospital #674)	\$203.53
To pay HEB Food Stores #089 for a void warrant for various food items (Kerrville State Hospital #674)	\$132.67
To pay HEB Food Stores #089 for a void warrant for various food items (Kerrville State Hospital #674)	\$52.35
To pay Lena Margaret Glick for a void warrant for boat registration fees	\$18.00
To pay Ruby G. Preston for travel reimbursement for January 4, 1994, through January 31, 1994	\$549.36
To pay Citicorp Information Resources, Inc., care of Citicorp Mortgage, Inc., for a void warrant for refund of franchise tax	\$2,092.00
To pay Citicorp National Services, Inc., care of Citicorp Mortgage, Inc., for a void warrant for refund of franchise tax	\$6,942.00
To pay American Maturity Life Insurance Company for a void warrant	\$55,060.00
To pay Porter Pools, Inc., for a void warrant for unclaimed property	\$176.46
To pay Fred Burkhardt, Jr., for a void warrant for refund of fuel tax	\$220.35
To pay Maurice Oliver for workers' compensation impairment income benefits for January 31, 1994, through May 15, 1994	\$4,785.00
To pay William M. Neal for workers' compensation travel for May 5, 1993, through May 27, 1993	\$181.44
To pay William M. Neal for workers' compensation travel for January 13, 1994, through June 22, 1994	\$60.48
To pay William M. Neal for workers' compensation travel for September 13, 1993, through December 27, 1993	\$120.96
To pay Debbie K. Chapman for workers' compensation travel for February 12, 1992, through August 20, 1992	\$53.88
To pay Debbie K. Chapman for workers' compensation travel for February 17, 1993, through August 3, 1993	\$94.09
To pay Kaiser Foundation Health Plan for workers' compensation	\$516.98
To pay Region 19 Education Service Center for expenses for Women and Children's School Health Program	\$3,472.00
To pay Karon Gaye McDonald for workers' compensation travel for February 5, 1992, through August 19, 1992	\$33.44

To pay Karon Gaye McDonald for workers' compensation travel for September 9, 1992	\$16.72
To pay Karon Gaye McDonald for workers' compensation travel for March 13, 1991, through March 20, 1991	\$30.40
To pay Med-Care Warehouse Pharmacy for vendor drug program services	\$24.58
To pay Danny Frank Robertson, doing business as Dan's Pharmacy, for void warrants for vendor drug program	\$1,393.48
To pay Wal-Mart Pharmacy #10-0408 for vendor drug program services	\$63.15
To pay Life Support Counseling & Research, Inc., Therapeutic Family Life, for foster care	\$63,133.31
To pay Executive Jet Interiors, Inc., care of Parr Recovery, Inc., for a void warrant for cash bond refund	\$1,350.00
To pay Kyle Drug, care of Parr Recovery, Inc., for a void warrant for vendor drug program services	\$1,316.81
To pay Denovo Oil & Gas, Inc., care of Parr Recovery, Inc., for a void warrant for unclaimed property	\$1,639.53
To pay Citizens Pharmacy, care of Parr Recovery, Inc., for a void warrant for vendor drug program services	\$1,816.02
To pay Jesse G. Duncan for workers' compensation travel for July 16, 1993, through June 14, 1994	\$50.00
To pay Jesse G. Duncan for workers' compensation travel for October 5, 1993, through February 8, 1994	\$88.20
To pay Jesse G. Duncan for workers' compensation travel for September 7, 1993, through September 14, 1993	\$36.40
To pay Jesse G. Duncan for workers' compensation travel for October 3, 1992, through July 6, 1993	\$127.68
To pay Galveston County Child Protective Services Fund for emergency foster care services	\$38,953.80
To pay Medical Discount Pharmacy, Inc., for void warrants for vendor drug program services	\$8,614.84
To pay Tandy Corporation, doing business as Computer City, care of Computer Supercenter International, Inc., for a void warrant for refund of a deposit for certification of authority	\$500.00
To pay TE Electronics, Inc., for a void warrant for refund of deposit for a certificate of authority	\$500.00
To pay Bank One Texas, care of Parr Recovery, Inc., for a void warrant for unclaimed property	\$1,200.00
To pay Lopez Supermarkets, Inc., care of Parr Recovery, Inc., for a void warrant for refund of city sales tax	\$1,098.14
To pay Kay K. Hemphill for void warrants for Richmond State School	\$68.00
To pay Gerald W. Siegelin for a void warrant for unclaimed property	\$93.75
To pay Outreach Health Services for social services	\$11,626.17
To pay Debra A. Williams for workers' compensation travel	\$274.40
To pay Lodestone Systems, care of Christy Storey, for a void warrant for tax refund	\$99.48



To pay Harold Oliver Lewis for a void warrant	\$29.95
To pay Awalt Auto Supply for supplies	\$100.80
To pay Johnnie R. Remedés for workers' compensation travel	\$162.40
To pay Johnnie R. Remedés for workers' compensation travel	\$97.44
To pay Zoleta Freeman for workers' compensation travel for March 7, 1994	\$46.59
To pay Zoleta Freeman for workers' compensation travel for November 11, 1991, through July 3, 1992	\$137.28
To pay Zoleta Freeman for workers' compensation travel for September 5, 1990, through July 1, 1991	\$291.20
To pay Raul Mireles, M.D., P.A., for workers' compensation services	\$2,527.50
To pay Sandy Garcia for workers' compensation travel for September 25, 1992	\$40.32
To pay Sandy Garcia for workers' compensation travel for July 18, 1993, through August 8, 1993	\$221.76
To pay Sandy Garcia for workers' compensation travel for January 28, 1992, through July 1, 1992	\$161.28
To pay Texas Trauma Rehabilitation Associates for workers' compensation services	\$303.60
To pay Galveston County Community Action Council, Inc., for child care services	\$10,513.00
To pay The New Players, Inc., care of Players Club, for a void warrant	\$3,040.00
To pay Chimney Rock Center Emergency Shelter for child emergency care	\$8,838.64
To pay Galveston County Community Action Council, Inc., for child care services	\$52,126.67
To pay South Austin Medical Clinic for workers' compensation services	\$154.70
To pay Garland Community Hospital for workers' compensation services	\$2,000.00
To pay Garland Community Hospital for workers' compensation services	\$10,340.56
To pay Armando Osio, M.D., Family Medicine Center, for workers' compensation services	\$61.49
To pay Super Save Drugs #2 for vendor drug program services	\$121.95
To pay Reddy Medical Association for workers' compensation services	\$34.00
To pay Halfman Ranch, Inc., for a void warrant for franchise tax overpayment	\$50.16
To pay San Angelo Radiologist for workers' compensation services	\$45.68
To pay South Austin Medical Clinic for workers' compensation services	\$112.76
To pay South Austin Medical Clinic, P.A., care of Henry M. Dittert, for workers' compensation services	\$103.58
To pay F. Kelly Cunningham, M.D., for workers' compensation services	\$36.79
To pay South Park Medical Center, care of Southwest General Hospital — San Antonio, for workers' compensation services	\$357.98

To pay Trinity Valley Medical Center for workers' compensation services	\$4,087.77
To pay the Houston Chronicle for classified advertising	\$1,555.80
To pay the Department of Protective and Regulatory Services as assignee for Margie Galvan for travel for July 4, 1993, through July 9, 1993	\$355.00
To pay Therapeutic Family Life for child care services for September 27, 1995, through November 30, 1995	\$6,504.64
To pay Therapeutic Family Life for child care services for April 1, 1996, through August 31, 1996	\$4,925.61
To pay Therapeutic Family Life for child care services for June 23, 1995, through August 31, 1995	\$4,575.30
To pay Therapeutic Family Life for child care services for September 30, 1996, through November 30, 1996	\$1,770.47
To pay Carl D. Henderson for a void warrant for unclaimed property	\$110.00
To pay Nike, Inc., for a void warrant	\$500.00
To pay Fetcor, care of Parr Recovery, Inc., for a void warrant	\$1,944.36
To pay Ruby Preston for travel for February 28, 1994, through November 18, 1994	\$1,557.76
To pay Jessie Mae Williams for workers' compensation impairment income benefits for December 20, 1993, through August 7, 1994	\$4,605.00
SECTION 2. The following sum of money is appropriated out of the Confederate Pension Fund No. 0005 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:	
To pay Metropolitan Life Insurance Company, care of Full Circle Services, for a void warrant for ranger pension fund refund	\$4,240.16
SECTION 3. The following sums of money are appropriated out of the State Highway Fund No. 0006 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:	
To pay Exxon Company USA for a void warrant	\$14,416.48
To pay the City of Mineral Wells for reimbursements for electric services	\$39,385.99
To pay Richard Herndon for travel reimbursement for May 1991	\$677.91
To pay Karnes Multi Media for multi media newspaper ads	\$129.80
To pay Elroy X. Cavazos for a void warrant for travel reimbursement	\$458.53
SECTION 4. The following sum of money is appropriated out of the Proportional Registration Distributive Trust Fund No. 0021 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:	
To pay Camco Incorporated, care of Nelson-Brown Equities, Inc., for a void warrant for fuel tax refund	\$4,791.05
SECTION 5. The following sum of money is appropriated out of the Coastal Protection Account No. 0027 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:	
To pay William Marsh Rice University for difference still due on General Land Office contract for July 1995	\$7,976.75
SECTION 6. The following sums of money are appropriated out of the Operators and Chauffeurs License Account No. 0099 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:	

To pay Dowd Bert Hauver for a void warrant for travel reimbursement	\$42.00
To pay Southwestern Bell Wireless for telephone services	\$84.03
To pay Southwestern Bell Wireless for telephone services	\$80.00
To pay Southwestern Bell Wireless for telephone services	\$80.00
To pay Southwestern Bell Wireless for telephone services	\$85.10
To pay Southwestern Bell Wireless for telephone services	\$80.00
To pay Southwestern Bell Wireless for telephone services	\$80.00
To pay Southwestern Bell Wireless for telephone services	\$80.00
To pay Southwestern Bell Wireless for telephone services	\$80.00
To pay Maria Luisa Zapata for a void warrant for refund of driver's license fee	\$50.00

SECTION 7. The following sum of money is appropriated out of the Community Affairs Federal Account No. 0127 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay Leonard W. Morgan for a void warrant	\$265.00
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SECTION 8. The following sum of money is appropriated out of the Federal Alcoholism Account No. 0136 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay Volunteers of America, care of Parr Recovery, Inc., for a void warrant for insurance tax refund	\$8,368.00
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SECTION 9. The following sums of money are appropriated out of the Federal Adult Blind Account No. 0141 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay James D. McNabb, M.D., for a void warrant for services	\$400.00
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To pay Retina Consultants of Texas, P.A., for a void warrant for eye care services	\$25.00
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To pay Brian B. Berger, M.D., P.A., for a void warrant for eye care services	\$970.00
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SECTION 10. The following sums of money are appropriated out of the Compensation to Victims of Crime Account No. 0469 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay Jose M. Parra for a void warrant for reimbursement for medical expenses for crime victims	\$1,000.00
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To pay Loyce Hagens, Ph.D., for a void warrant for crime victim's award	\$810.00
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To pay Gwendolyn Scharlene Jackson for a void warrant for crime victims compensation	\$25.00
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SECTION 11. The following sums of money are appropriated out of the Waste Management Account No. 0549 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay Edwin Kovar for refund of a petroleum storage tank registration fee	\$100.00
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To pay Martha L. Poldrock, doing business as Stock-Up, for refund of a petroleum storage tank registration fee	\$75.00
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To pay Equity Development Corporation for refund of a petroleum storage tank registration fee	\$300.00
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To pay Halliburton Energy Services for refund of a petroleum storage tank registration fee	\$125.00
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To pay Harding & Lawler, Inc., for refund of a petroleum storage tank registration fee	\$100.00
To pay Kellogg Chevrolet, Inc., for refund of a petroleum storage tank registration fee	\$100.00
To pay Maxwell Distributing, Inc., for refund of a petroleum storage tank registration fee	\$50.00
To pay Lufkin Motors, Inc., for refund of a petroleum storage tank registration fee	\$50.00
To pay Bob Brock Food, Inc., for refund of a petroleum storage tank registration fee	\$150.00
To pay Freeport Constructors, Inc., for refund of a petroleum storage tank registration fee	\$100.00
To pay Gail Messamore for refund of a petroleum storage tank registration fee	\$300.00
To pay PSP Industries, doing business as Monotech Corporation, for refund of a petroleum storage tank registration fee	\$100.00
To pay H. B. Moody, Jr., for refund of a petroleum storage tank fee	\$50.00
To pay Fuel Stop, Inc., for overpayment of a petroleum storage tank fee	\$150.00
To pay Crown, Cork & Seal for refund of a petroleum storage tank fee	\$200.00
To pay Mill Creek Golf & Country Club for refund of a petroleum storage tank fee	\$25.00
To pay Marathon Oil Company for refund of a petroleum storage tank fee	\$150.00
To pay Kenneth D. Walker for overpayment of a petroleum storage tank fee	\$75.00
To pay Wayne Shannon for refund of a petroleum storage tank fee	\$100.00
To pay Hubert Green for overpayment of a petroleum storage tank fee	\$150.00
To pay King-Mesa, Inc., for overpayment of petroleum storage tank fees	\$750.00
To pay H. D. Johnson for refund of a petroleum storage tank fee	\$125.00
To pay 278 Truck Wash, Inc., for refund of a petroleum storage tank fee	\$50.00
To pay Sunglo, Inc., for refund of a petroleum storage tank fee	\$50.00
To pay Vecta for refund of a petroleum storage tank fee	\$25.00
To pay E. A. Miller for refund of a petroleum storage tank fee	\$250.00
To pay Texas Enterprises, Inc., for refund of a petroleum storage tank fee	\$100.00
To pay Waste Management of Texas, Inc., doing business as Waste Management of Dallas, for refund of a petroleum storage tank fee	\$250.00
To pay Lynn County Fuel Association for refund of a petroleum storage tank fee	\$200.00
To pay Southwest Neon Sign, Inc., for refund of a petroleum storage tank fee	\$100.00
To pay Tandycrafts, Inc., for refund of a petroleum storage tank fee	\$25.00
To pay Odessa LPG Transport Company, Inc., for refund of a petroleum storage tank fee	\$50.00
To pay Navistar International Transportation Corporation for refund of a petroleum storage tank fee	\$50.00

To pay Trinity Forge, Inc., for refund of a petroleum storage tank fee	\$300.00
To pay Harold Winsaver for refund of a petroleum storage tank fee	\$200.00
To pay Automotive Industries Manufacturing, Inc., doing business as Texas Plastic Industries, for refund of a petroleum storage tank fee	\$100.00
To pay Southwestern Petroleum Corporation for refund of a petroleum storage tank fee	\$100.00
To pay Tersco, Inc., for refund of a petroleum storage tank fee	\$100.00
To pay West Texas Resort Company for refund of a petroleum storage tank fee	\$50.00
To pay Everett Griffith, Jr., & Associates, Inc., for refund of a petroleum storage tank fee	\$100.00
To pay Schult Homes Corporation for refund of a petroleum storage tank fee	\$50.00
To pay J-A-C Electric Cooperative, Inc., for refund of a petroleum storage tank fee	\$150.00
To pay Hillman's Seafood Cafe, Inc., for refund of a petroleum storage tank fee	\$200.00
To pay UPS Truck Leasing, Inc., for refund of a petroleum storage tank fee	\$200.00
To pay Phillips Pipe Line Company for refund of a petroleum storage tank fee	\$100.00
To pay Riverside Farms for refund of a petroleum storage tank fee	\$50.00
To pay Wood Oil Distributing, Inc., for refund of a petroleum storage tank fee	\$50.00
To pay Pastoral Care and Counseling Center for refund of a petroleum storage tank fee	\$100.00
To pay the El Paso Times for refund of a petroleum storage tank fee	\$50.00
To pay Trinity Fellowship for refund of a petroleum storage tank fee	\$50.00
To pay Joyce Wiseman for refund of a petroleum storage tank fee	\$50.00
To pay United Parcel Service for refund of a petroleum storage tank fee	\$50.00
To pay Scott Manufacturing, Inc., for refund of a petroleum storage tank fee	\$50.00
To pay Wright Oil Company for refund of a petroleum storage tank fee	\$50.00
To pay Lane Container Company for refund of a petroleum storage tank fee	\$50.00
To pay OTC Petroleum Corporation for refund of a petroleum storage tank fee	\$75.00
To pay Turner Welding Service for refund of a petroleum storage tank fee	\$100.00
To pay Southwest Coca-Cola Bottling for refund of a petroleum storage tank fee	\$100.00
To pay Switzer Petroleum Products, Inc., for refund of a petroleum storage tank fee	\$100.00
To pay Switzer Petroleum Products, Inc., for refund of a petroleum storage tank fee	\$100.00
To pay Switzer Petroleum Products, Inc., for refund of a petroleum storage tank fee	\$100.00

To pay Parker Tire & Service, Inc., for refund of a petroleum storage tank fee	\$500.00
To pay Wagner Cadillac Company for refund of a petroleum storage tank fee	\$50.00
To pay Waukesha-Pearce Industries, Inc., for refund of a petroleum storage tank fee	\$150.00
To pay Jack C. Sherrod for refund of a petroleum storage tank fee	\$50.00
To pay Herman Ruthardt for refund of a petroleum storage tank fee	\$500.00
To pay United Parcel Service for refund of a petroleum storage tank fee	\$950.00
To pay Darling International (Houston) for refund of a petroleum storage tank fee	\$300.00
To pay Tri C Oil Company, care of Norman R. Curry, for refund of a petroleum storage tank fee	\$375.00
To pay Klein Products of Kansas, Inc., for refund of a petroleum storage tank fee	\$25.00
To pay Elizabeth Weissenborn for refund of a petroleum storage tank fee	\$100.00
To pay Vaughan Family Properties, care of Joe Harris, for refund of a petroleum storage tank fee	\$1,000.00
To pay Florida Gas Transmission Company for refund of a petroleum storage tank fee	\$150.00
To pay Elmwood Memorial Park for refund of a petroleum storage tank fee	\$50.00
To pay Austin Roofers Supply, Inc., for refund of a petroleum storage tank fee	\$50.00
To pay Ersa G. Schwab for refund of a petroleum storage tank fee	\$100.00
To pay Zero Investments, care of Campbell & Morgan, P.C., for refund of a petroleum storage tank fee	\$600.00
To pay Zero Investments, care of Campbell & Morgan, P.C., for refund of a petroleum storage tank fee	\$150.00
To pay Pacific Properties for refund of a petroleum storage tank fee	\$200.00
To pay Union Oil Company of California for refund of a petroleum storage tank fee	\$100.00
To pay Tri Gas, Inc., for refund of a petroleum storage tank fee	\$50.00
To pay Bobby Joe Grammar for refund of a petroleum storage tank fee	\$50.00
To pay Roy Weishuhn for refund of a petroleum storage tank fee	\$50.00
To pay William Rial Taylar for refund of a petroleum storage tank fee	\$150.00
To pay Darling International (Houston) for refund of a petroleum storage tank fee	\$300.00
To pay Larry Osoff for refund of a petroleum storage tank fee	\$50.00
To pay Rice Engineering Corporation for refund of a petroleum storage tank fee	\$400.00
To pay West-T-Go (Trent Investments, Inc.) for refund of a petroleum storage tank fee	\$500.00
To pay Safety Kleen Corporation for refund of a petroleum storage tank fee	\$200.00

To pay James Stockard for refund of a petroleum storage tank fee	\$200.00
To pay Tubular Products of Texas for refund of a petroleum storage tank fee	\$50.00
To pay Western Extrusions Corporation for refund of a petroleum storage tank fee	\$50.00
To pay Figgie Natural Resources, Division of Figgie International, for refund of a petroleum storage tank fee	\$200.00
To pay Union Pacific Railroad for refund of a petroleum storage tank fee	\$500.00
To pay Waukesha-Pearce Industries, Inc., for refund of a petroleum storage tank fee	\$100.00
To pay Texas Commerce Bank — TC Leasing Company, for refund of a petroleum storage tank fee	\$450.00
To pay Swift-Eckrich, Inc., for refund of a petroleum storage tank fee	\$150.00
To pay UPS Truck Leasing, Inc., for refund of a petroleum storage tank fee	\$300.00
To pay Rose-Tech Veterinary Clinic Corporation for refund of a petroleum storage tank fee	\$25.00
To pay American Electric Service & Supply for refund of a petroleum storage tank fee	\$150.00
To pay Rock D. Wakefield for refund of a petroleum storage tank fee	\$250.00
To pay Steepe Tank Lines, Inc., for refund of a petroleum storage tank fee	\$225.00
To pay Travis County Rent Account — Watkins, Ray, Smith & Lloyd for refund of a petroleum storage tank fee	\$250.00
To pay Sam L. Sadler, Inc., for refund of a petroleum storage tank fee	\$50.00
To pay Truck Town, Inc., for refund of a petroleum storage tank fee	\$75.00
To pay Marty & Ricks Electric, Inc., doing business as Texas Electric Company, for refund of a petroleum storage tank fee	\$250.00
To pay Eugene R. O'Neal, doing business as O'Neal's Exxon Auto Service, for refund of a petroleum storage tank fee	\$50.00
To pay Red Carpet Car Wash, Inc., for refund of a petroleum storage tank fee	\$300.00
To pay Marty & Ricks Electric, Inc., doing business as Texas Electric Company, for refund of a petroleum storage tank fee	\$50.00
To pay Polar Tank Trailer, Inc., for refund of a petroleum storage tank fee	\$100.00
To pay Polar Tank Trailer, Inc., for refund of a petroleum storage tank fee	\$100.00
To pay Glen D. Akin for refund of a petroleum storage tank fee	\$50.00
To pay Spigel Properties for refund of a petroleum storage tank fee	\$150.00
To pay the estate of Joe Crow, care of Diana Crow, for refund of a petroleum storage tank fee	\$150.00
To pay Shifflett Oil Company, Inc., for refund of a petroleum storage tank fee	\$25.00
To pay Shifflett Oil Company, Inc., for refund of a petroleum storage tank fee	\$25.00

To pay Mission Valley Textiles, Inc., for refund of a petroleum storage tank fee	\$25.00
To pay Switzer Petroleum Products, Inc., for refund of a petroleum storage tank fee	\$100.00
To pay Oxy USA, Inc., for refund of a petroleum storage tank fee	\$125.00
To pay Union Carbide Corporation for refund of a petroleum storage tank fee	\$400.00
To pay Mrs. Felix Snoga for refund of a petroleum storage tank fee	\$300.00
To pay Stanley Morris for refund of a petroleum storage tank fee	\$25.00
To pay Rodgers Ford Sales, Inc., for refund of a petroleum storage tank fee	\$150.00
To pay South Randall County Hospital District, doing business as Palo Duro Hospital, for refund of a petroleum storage tank fee	\$50.00
To pay J. D. Wood for refund of a petroleum storage tank fee	\$150.00
To pay El Paso Energy for refund of a petroleum storage tank fee	\$50.00
To pay Trent Investments, Inc., doing business as Wes-T-Go, for refund of a petroleum storage tank fee	\$150.00
To pay Laredo Coca-Cola Bottling Company for refund of a petroleum storage tank fee	\$400.00
To pay Dorskocil Manufacturing Company, Inc., for refund of a petroleum storage tank fee	\$25.00
To pay Thomas Conveyor Company for refund of a petroleum storage tank fee	\$50.00
To pay Paper Chemicals, Inc., for refund of a petroleum storage tank fee	\$150.00
To pay SDD Partnership for refund of a petroleum storage tank fee	\$150.00
To pay K. D. Timmons, Inc., for refund of a petroleum storage tank fee	\$75.00
To pay Rosala Parks for refund of a petroleum storage tank fee	\$500.00
To pay Charles R. Wilhite, doing business as Wilhite Grocery, for refund of a petroleum storage tank fee	\$600.00
To pay T. C. Graham's Auto Service, Inc., for refund of a petroleum storage tank fee	\$250.00

SECTION 12. The following sum of money is appropriated out of the Judicial Fund No. 0573 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay James K. Walker for a void payroll warrant	\$897.47
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SECTION 13. The following sum of money is appropriated out of the Petroleum Storage Tank Remediation Account No. 0655 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay Moylan Construction Company, Inc., for the removal of underground storage tanks under contract with More Fuels, Inc., and the State of Texas	\$35,427.70
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SECTION 14. The following sum of money is appropriated out of the Texas Agriculture Fund No. 0683 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay Vinson & Elkins, L.L.P., for fees and services	\$951.53
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SECTION 15. The following sums of money are appropriated out of the Unemployment Compensation Clearance Account No. 0936 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:



To pay Mamzelle, Inc., care of Edna Burkett, for a void warrant for unemployment insurance \$22.51

To pay Monks Tires for a void warrant for unemployment surplus credit \$52.46

SECTION 16. The following sums of money are appropriated out of the Workforce Commission Federal Account No. 5026 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay Christoval A. Perales for void warrants for travel reimbursement \$817.51

To pay the estate of Audrey T. Alford for a void warrant for leave balances \$321.42

To pay Laurel A. Hester for a void warrant for travel reimbursement \$73.12

To pay Pine Trails Utility Company, Inc., for water meter services \$464.36

To pay Larry J. Durham, Sr., for a void warrant \$302.72

SECTION 17. The following additional sum of money is appropriated out of the General Revenue Fund No. 0001 for payment of itemized claims and judgments plus interest, if any, against the State of Texas:

To pay Ben Salazar for wrongful imprisonment \$25,000.00

SECTION 18. (a) The following sums of money are appropriated to the Department of Human Services, out of funds as provided by Subsection (b) of this section, for payment of itemized claims against the State of Texas:

To pay Living Centers of America, doing business as Retama Manor McAllen, for nursing home services \$1,670.30

To pay Living Centers of America, doing business as Willowbend, for nursing home services \$12.91

To pay Living Centers of America, doing business as Care Inn Sanger, for nursing home services \$980.26

To pay Horizon Healthcare El Paso for nursing home services \$25,018.52

To pay Living Centers of America, doing business as Beechnut Manor, for nursing home services \$5,796.26

To pay Living Centers of America for nursing home services \$84.50

To pay Integrated Health Services, Inc., doing business as IHS at Keller, for nursing home services \$11,737.61

To pay Integrated Health Services, Inc., doing business as IHS at Richardson, for nursing home services \$12,953.39

To pay Vitas Healthcare Corporation for hospice services \$29,161.29

To pay Evelyn Marie Mathis for additional AFDC benefits for the month of December 1992 \$95.00

To pay Texhoma Christian Care Center, Inc., for nursing home services \$10,814.22

To pay Texhoma Christian Care Center, Inc., for nursing home services \$621.86

To pay Living Centers of Texas, doing business as Montrose Care, for nursing home services \$12,082.24

To pay Living Centers of Texas, doing business as Northway Healthcare, for nursing home services \$2,360.78

To pay Sherwood Health Care, Inc., for nursing home services \$21.92

To pay Evelyn Marie Mathis for additional AFDC benefits for January 1993 through February 1993 \$184.00

To pay San Jose Nursing Center for nursing home services	\$1,780.08
To pay Mariner Health of Nashville, Inc., doing business as Mariner Health at First Colony, for nursing home services	\$1,662.02
To pay Living Centers of America, doing business as Coastal Healthcare, for nursing home services	\$732.33
To pay Living Centers of America, doing business as Bay Villa, for nursing home services	\$118.32
To pay Texas Health Enterprises, doing business as Lytle Nursing Home, for nursing home services	\$1,523.18
To pay Valley View Nursing Center for nursing home services	\$2,182.53
To pay Esmerald A. Belmontes for additional AFDC benefits for April 1991 through May 1993	\$1,171.00
To pay Seven Acres Jewish Geriatric Center, Inc., for nursing home services	\$7,621.59
To pay Texas Health Enterprises, doing business as Itasca Nursing Home, for nursing home services	\$32.86
To pay Living Centers of America, doing business as Southfield #208, for nursing home services	\$5,581.24
To pay Living Centers of America, doing business as Southfield #208, for nursing home services	\$2,293.69
To pay Living Centers of America, doing business as Montrose Care #163, for nursing home services	\$405.79
To pay Valley Grande Manor for nursing home services	\$1,103.35
To pay Long Meadow Care Center, Inc., for nursing home services	\$1,625.20
To pay Hospitality House, Inc., for nursing home services	\$8,082.00
To pay Living Centers of America, doing business as Golden Years #5, for nursing home services	\$1,714.56
To pay Living Centers of America, doing business as Green Acres Convalescent Center, for nursing home services	\$2,425.31
To pay Living Centers of America, doing business as Sweetbriar Nursing Home, for nursing home services	\$115.44
To pay Living Centers of America, doing business as Green Acres Vidor, for nursing home services	\$356.08
To pay Living Centers of America, doing business as Retama Manor Living Center, for nursing home services	\$3,921.80
To pay Beverly Enterprises - Texas, Inc., doing business as Olney Nursing Home, for nursing home services	\$95.04
To pay Lancaster Residential Center for nursing home services	\$32.36
To pay Oakbrook Health Care Center for nursing home services	\$2,281.50
To pay Winnie L. Nursing Facility for nursing home services	\$36.20
To pay Beverly Enterprises, doing business as Suburban Acres, for nursing home services	\$1,257.20
To pay DSJ Healthcare, Inc., doing business as TJE Collinwood (Collin Care Center), for nursing home services	\$2,329.49
To pay Mariner Health of Nashville, doing business as Mariner Health of Woodwind Lakes, for nursing home services	\$374.98
To pay Kingsland Hills Care Center for nursing home services	\$4,333.44

To pay Vitas Healthcare Corporation for hospice services for February 1995 through August 1995	\$8,321.48
To pay St. Elizabeth Nursing Home for nursing home services	\$2,045.97
To pay Living Centers of America, doing business as Faith Memorial, for nursing home services	\$646.49
To pay Living Centers of America, doing business as Retama Manor West, for nursing home services	\$379.82
To pay Living Centers of America, doing business as Jacinto City, for nursing home services	\$3,329.12
To pay Living Centers of America, doing business as RM Corpus North, for nursing home services	\$119.90
To pay Living Centers of America, doing business as Lakeshore Village, for nursing home services	\$579.39
To pay Parkwood Place for nursing home services	\$3,570.90
To pay Texas Health Enterprises, Inc., doing business as Denver Manor Nursing Home, for nursing home services	\$845.48
To pay Golden Plains Care Center Canyon for nursing home services	\$4,420.04
To pay Galaxy Manor Nursing Center for nursing home services	\$1,424.29
To pay Palestine Nursing Center for nursing home services	\$4,329.04
To pay Integrated Health Services, Inc., doing business as IHS at Richardson, for nursing home services	\$5,040.92
To pay Benito Calvo for additional AFDC benefits	\$1,246.00
To pay Valley Grande Manor for nursing home services	\$716.25
To pay The Woodlands Healthcare Center for nursing home services	\$7,019.67
To pay Texas Health Enterprises, doing business as Park Haven Nursing, for nursing home services	\$503.54
To pay Golden Age Care Center for nursing home services	\$627.84
To pay Living Centers of America, doing business as Silver Creek, for nursing home services	\$2,235.08
To pay Living Centers of America, doing business as Hilltop Village, for nursing home services	\$856.28
To pay Living Centers of America, doing business as Pine Arbor, for nursing home services	\$425.60
To pay Living Centers of America, doing business as RM Harlingen, for nursing home services	\$2,775.07
To pay Del-Ky, Inc., doing business as Southaven Nursing Center, for nursing home services	\$4,579.07
To pay Oak Grove Nursing Home, Inc., for nursing home services	\$40.37
To pay Highland Pine Nursing Home for nursing home services	\$283.03
To pay Special Professional Care III, doing business as Ennis Care Center, for nursing home services	\$963.37
To pay Christian Care Centers, Inc., doing business as Hilltop Haven, for nursing home services	\$3,039.50
To pay Oak Manor, Inc., doing business as Schulenburg Regency North Center, for nursing home services	\$138.72
To pay Living Centers of America, doing business as Brazos Valley #111, for nursing home services	\$151.59
To pay Living Centers of America, doing business as Winchester Lodge #00-078, for nursing home services	\$3,582.00

To pay Living Centers of America, doing business as Park Highlands #00-020, for nursing home services	\$87.14
To pay Living Centers of America, doing business as Golden Years #00-005, for nursing home services	\$427.69
To pay Living Centers of America, doing business as Stoneybrook Healthcare, for nursing home services	\$5,310.66
To pay Shady Oak Nursing Center for nursing home services	\$96.27
To pay Woody Weaver Pharmacy for a void warrant for prescriptions filled for Medicaid patients	\$664.10
To pay Volunteers of America, doing business as Embers Trail House, for nursing home services	\$5,514.08
To pay Community Access, Inc., doing business as Pinecrest House, for nursing home services	\$3,301.65
To pay Midland Memorial Rehabilitation Hospital for nursing home services	\$4,602.88
To pay Lion Health Centers (Irving), Inc., doing business as Ashford Hall, for nursing home services	\$1,141.57
To pay San Jacinto Methodist Hospital for nursing home services	\$75.61
To pay Tomball Hospital Authority, doing business as The Skilled Nursing Center of Tomball, for nursing home services	\$3,793.36
To pay Twin Pines Foundation, doing business as Twin Pines Nursing Home, for nursing home services	\$1,096.83
To pay Beverly Enterprises Texas, Inc., doing business as Balch Springs Nursing Home, for nursing home services	\$1,515.48
To pay Dallas Home for Jewish Aged, Inc., for nursing home services	\$5,947.56
To pay Texas Home Management, Inc., doing business as Fleetwood Home, for nursing home services	\$12,448.83
To pay Living Centers of America, doing business as Beechnut Manor, for nursing home services	\$173.92
To pay Gulf Health Care, Inc., doing business as Gulf Health Care Center — Texas City, for nursing home services	\$3,710.05
To pay Brentwood Healthcare, Ltd., doing business as Brentwood Place III, for nursing home services	\$1,655.00
To pay Arbor Living Centers of Texas, doing business as Crystal Hill Nursing Home, for nursing home services	\$764.48
To pay Living Centers of America, doing business as Retama Manor Edinburg, for nursing home services	\$1,239.90
To pay Living Centers of America, doing business as Bastrop Nursing Center, for nursing home services	\$1,161.85
To pay Qualicorp Management, Inc., doing business as Renaissance Place - Katy, for nursing home services	\$1,809.09
To pay Cantex Healthcare Centers, a Partnership, doing business as Livingston Convalescent Center, for nursing home services	\$2,411.97
To pay Texas Health Enterprises, doing business as Canterbury Villa of Falfurrias, for nursing home services	\$821.45
To pay Texas Health Enterprises, Inc., doing business as Quaker Villa, for nursing home services	\$4,573.82

To pay Clint L. Hines, Inc., doing business as Shady Acres Health Care Center, for nursing home services	\$5,576.88
To pay Integrated Health Services, Inc., doing business as IHS at Hurst, for nursing home services	\$7,823.64
To pay Girling Healthcare, Inc., for primary home care	\$71.80
To pay Vitas Healthcare Corporation for hospice services	\$341.20
To pay Vitas Healthcare Corporation for hospice services	\$2,652.72
To pay Vitas Healthcare Corporation for hospice services	\$1,053.13
To pay Vitas Healthcare Corporation for hospice services	\$1,168.32
To pay Vitas Healthcare Corporation for hospice services	\$3,018.16
To pay Vitas Healthcare Corporation for hospice services	\$3,018.16
To pay Vitas Healthcare Corporation for hospice services	\$3,018.16
To pay Vitas Healthcare Corporation for hospice services	\$2,920.80
To pay Vitas Healthcare Corporation for hospice services	\$2,920.80
To pay Vitas Healthcare Corporation for hospice services	\$2,823.44
To pay Vitas Healthcare Corporation for hospice services	\$2,920.80
To pay Vitas Healthcare Corporation for hospice services	\$1,431.75
To pay Vitas Healthcare Corporation for hospice services	\$724.29
To pay Vitas Healthcare Corporation for hospice services	\$575.58
To pay Vitas Healthcare Corporation for hospice services	\$5,824.00
To pay Chandler Nursing Center for nursing home services	\$75.19
To pay White Dove Group Home — Texas Home Management, Inc., for nursing home services	\$13,694.24
To pay Oree Foutz for AFDC benefits for June 1994 through July 1994	\$72.00
To pay BWB Sunbelt, doing business as Outreach Health Services, for community based alternative services for January 1996	\$142.54
To pay BWB Sunbelt, doing business as Outreach Health Services, for community based alternative services for February 1996	\$142.29
To pay BWB Sunbelt, doing business as Outreach Health Services, for community based alternative services for January 1996	\$284.58
To pay BWB Sunbelt, doing business as Outreach Health Services, for community based alternative services for August 1995	\$142.29
To pay BWB Sunbelt, doing business as Outreach Health Services, for community based alternative services for September 1995	\$142.29
To pay BWB Sunbelt, doing business as Outreach Health Services, for community based alternative services for October 1995	\$284.58
To pay BWB Sunbelt, doing business as Outreach Health Services, for community based alternative services for December 1995	\$142.29
To pay BWB Sunbelt, doing business as Outreach Health Services, for community based alternative services for September 1995	\$466.44
To pay BWB Sunbelt, doing business as Outreach Health Services, for community based alternative services for June 1996	\$99.66
To pay BWB Sunbelt, doing business as Outreach Health Services, for community based alternative services for April 1996	\$202.80
To pay BWB Sunbelt, doing business as Outreach Health Services, for community based alternative services for December 1995	\$55.57
To pay BWB Sunbelt, doing business as Outreach Health Services, for community based alternative services for January 1996	\$1,168.21

To pay BWB Sunbelt, doing business as Outreach Health Services, for community based alternative services for 1995	\$9,296.38
To pay BWB Sunbelt, doing business as Outreach Health Services, for community based alternative services for 1995	\$11,959.12
To pay Integrated Health Services Hospital at Houston for nursing home services	\$21,582.47
To pay Texhoma Christian Care Center, Inc., for nursing home services	\$2,190.86
To pay Manor Care Health Services for nursing home services	\$2,161.87
To pay Texas Health Enterprises for nursing home services	\$2,099.83
To pay Texas Health Enterprises for nursing home services	\$1,719.58
To pay Osteopathic Medical Center for nursing home services	\$48,339.73
To pay Elmwood Nursing Center for nursing home services	\$379.86
To pay Brownfield Rehabilitation and Care Center for nursing home services	\$408.00

(b) The amounts appropriated by Subsection (a) of this section shall be drawn out of the following sources: \$173,669.09 from the General Revenue Fund No. 001 and \$288,831.91 from federal funds.

SECTION 19. (a) The following sums of money are appropriated to the Department of Human Services, out of funds as provided by Subsection (b) of this section, for payment of itemized claims against the State of Texas:

To pay Joy M. Williams for void warrants	\$52.95
To pay Joy M. Williams for a void warrant	\$53.90
To pay Fayette W. Sallie for a void warrant for travel reimbursement	\$144.00
To pay L & L Janitorial Service for a void warrant for janitorial services	\$342.00
To pay Travis County District Attorney's Office for attorney fees for fraud cases	\$840.00
To pay Wanda Arredondo (formerly Garza) for void warrants for travel reimbursements	\$577.82
To pay Pauline B. King for a void warrant for travel reimbursement	\$112.60
To pay Nora A. Villarreal for a void warrant for travel reimbursement	\$208.00
To pay Texas Department of Criminal Justice-Cashier's Office for office furniture	\$1,682.80
To pay The University of Texas at Austin, Continuing Engineering Studies, for employee training	\$365.00
To pay Shelia Shepard for void warrants	\$120.96

(b) The amounts appropriated by Subsection (a) of this section shall be drawn out of the following sources: \$2,250.02 from the General Revenue Fund No. 001 and \$2,250.01 from federal funds.

SECTION 20. The following additional sums of money are appropriated out of the General Revenue Fund No. 0001 from receipts originating from the tobacco settlement to satisfy any and all claims against the State of Texas that were or could have been raised in The State of Texas v. The American Tobacco Co., et al., No. 5-96CV-91, and acceptance of these funds will release the state of any liability and responsibility:

To pay the Texas Association of School Boards Risk Management Fund \$5,000,000.00

To pay the Texas Municipal League Group Benefits Risk Pool \$10,000,000.00

SECTION 21. (a) Except as provided by Subsection (c) of this section, before any claim or judgment may be paid from money appropriated by this Act, the claim or judgment must be verified and substantiated by the administrator of the special fund or account against which the claim is to be charged and be approved by the attorney general and the comptroller. Any claim or judgment itemized in this Act that has not been verified and substantiated by the administrator of the special fund or account and approved by the attorney general and the comptroller by August 31, 2000, may not be paid from money appropriated by this Act.

(b) Except as provided by Subsection (c) of this section, each claim must contain such information as the comptroller requires, but at a minimum must contain the specific reason for the claim. If the claim is for a void warrant, the claim must include a specific identification of the goods, services, refund, or other item for which the warrant was originally issued. In addition, it must include a certification by the original payee or the original payee's successor, heirs, or assigns that the debt is still outstanding. If the claim is for unpaid goods or services, it must be accompanied by an invoice or other acceptable documentation of the unpaid account and any other information that may be required by the comptroller.

(c) The attorney general shall approve the form and content of payments for a claim described by Section 20 of this Act.

SECTION 22. Subject to the conditions and restrictions in this Act and provisions stated in the judgments, the comptroller is authorized and directed to issue one or more warrants on the state treasury, as soon as possible following the effective date of this Act, in favor of each of the individuals, firms, or corporations named in Sections 1-17 or 20 of this Act, in an amount not to exceed the amount set opposite their respective names and shall mail or deliver to each of the individuals, firms, or corporations one or more warrants in payment of all claims included in this Act. The comptroller shall issue warrants to the Department of Human Services for payment in favor of each of the individuals, firms, or corporations listed in Sections 18 and 19 of this Act.

SECTION 23. This Act takes effect September 1, 1999.

SECTION 24. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

### **Floor Amendment No. 1**

Amend **CSSB 928** in SECTION 18 of the bill as follows:

(1) At the end of Subsection (a) (house committee report, page 40, between lines 20 and 21), insert the following:

To pay Dedicated Care Holdings, Inc., doing business as Oak Manor Nursing Home, in care of Gregory W. Hext, trustee, for payment of nursing services \$74,574.34

To pay Dedicated Care Holdings, Inc., doing business as Truman W. Smith Children's Care Center, in care of Gregory W. Hext, trustee, for payment of nursing services \$106,740.51

To pay Dedicated Care Holdings, Inc., doing business as Health Care Plaza, in care of Gregory W. Hext, trustee, for payment of nursing services \$6,317.22

To pay Dedicated Care Holdings, Inc., doing business as Sherman Nursing Home, in care of Gregory W. Hext, trustee, for payment of nursing services \$30,134.60

(2) Strike Subsection (b) (house committee report, page 40, lines 21-24) and substitute the following:

(b) The amounts appropriated by Subsection (a) of this section shall be drawn out of the following sources: \$255,440.48 from the General Revenue Fund No. 001 and \$424,827.19 from federal funds.

The amendments were read.

On motion of Senator Ratliff, the Senate concurred in the House amendments to **SB 928** by a viva voce vote.

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 2025 ADOPTED**

Senator Shapleigh called from the President's table the Conference Committee Report on **HB 2025**. The Conference Committee Report was filed with the Senate on Friday, May 21, 1999.

On motion of Senator Shapleigh, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 1272 ADOPTED**

Senator Wentworth called from the President's table the Conference Committee Report on **SB 1272**. The Conference Committee Report was filed with the Senate on Friday, May 21, 1999.

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

### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 507 ADOPTED**

Senator Duncan called from the President's table the Conference Committee Report on **SB 507**. The Conference Committee Report was filed with the Senate on Friday, May 14, 1999.

On motion of Senator Duncan, the Conference Committee Report was adopted by the following vote: Yeas 30, Nays 0.

Absent-excused: Luna.

### **CONFERENCE COMMITTEE REPORT ON SENATE BILL 1129 ADOPTED**

Senator Armbrister called from the President's table the Conference Committee Report on **SB 1129**. The Conference Committee Report was filed with the Senate on Friday, May 21, 1999.



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

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 730**

Senator Madla submitted the following Conference Committee Report:

Austin, Texas  
May 20, 1999

Honorable Rick Perry  
President of the Senate

Honorable James E. "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 **SB 730** have 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  
HARRIS  
LINDSAY  
NIXON  
LUCIO

On the part of the Senate

VAN DE PUTTE  
CAPELO  
GRAY  
URESTI  
HILDERBRAN

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to the licensing and regulation of pharmacists and pharmacies.

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

SECTION 1. Subdivision (7), Section 5, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(7) "Class C pharmacy license" or "institutional pharmacy license" means a license issued to a pharmacy located in:

(A) a hospital or other in-patient facility that is licensed under Chapter 241 ~~or 577~~, Health and Safety Code;

(B) ~~[-, or Chapter 6, Texas Mental Health Code (Article 5547-1 et seq., Vernon's Texas Civil Statutes), to]~~ a hospice in-patient facility that is licensed under Chapter 142, Health and Safety Code;

(C) an ambulatory surgical center licensed under Chapter 243, Health and Safety Code; or

(D) ~~[-, or to a pharmacy located in]~~ a hospital maintained or operated by the state.

SECTION 2. Subsections (a) and (b), Section 17, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) The board is responsible for the regulation of the practice of pharmacy in this state, including the following:

(1) the licensing by examination or by reciprocity of applicants who are qualified to engage in the practice of pharmacy and the licensing of pharmacies under this Act;

(2) the renewal of licenses to engage in the practice of pharmacy and licenses to operate pharmacies;

(3) the determination and issuance of standards for recognition and approval of degree requirements of colleges of pharmacy whose graduates shall be eligible for licensing in this state and the specification and enforcement of requirements for practical training, including internship;

(4) the determination and issuance of standards for recognition and approval of pharmacist certification programs, including a requirement that a pharmacist may not use the designation "board certified" unless the pharmacist has successfully completed a certification program that meets board standards;

(5) the enforcement of those provisions of this Act relating to the conduct or competence of pharmacists practicing in this state and the conduct of pharmacies operating in this state and the suspension, revocation, fining, reprimanding, cancellation, or restriction of licenses to engage in the practice of pharmacy or to operate a pharmacy;

(6) [~~5~~] the specifications of conditions under which a pharmacist may administer medications, including immunizations and vaccinations, which at a minimum shall include the following:

(A) a licensed health care provider authorized to administer the medication is not reasonably available to administer the medication;

(B) failure to administer the medication, other than an immunization or vaccination, might result in a significant delay or interruption of a critical phase of drug therapy;

(C) the pharmacist possesses the necessary skill, education, and certification to administer the medication as specified by the board;

(D) the pharmacist notifies the appropriate licensed health care provider responsible for the patient's care within a reasonable time that the medication was administered;

(E) a pharmacist may not administer medications to a patient where the patient resides, except in a licensed nursing home or hospital;

(F) the pharmacist administers immunizations or vaccinations under a physician's written protocol and meets the standards established by the board;

(G) the authority of the pharmacist to administer medications may not be delegated;

(H) nothing in this subdivision shall be construed to prohibit a pharmacist from preparing or manipulating biotechnological agents or devices; and

(I) nothing in this subdivision shall be construed as prohibiting a pharmacist from performing an act delegated by a physician in accordance with the provisions of Subsection (d), Section 3.06, Medical Practice Act (Article 4495b, Vernon's Texas Civil Statutes), and the pharmacist performing such a delegated medical act shall be considered to be performing a medical act and not as engaged in the practice of pharmacy;

(7) [~~6~~] the regulation of the training, qualifications, and employment of:

(A) pharmacist-interns; and

(B) pharmacy technicians; and

(8) [~~7~~] the enforcement of this Act and any rules adopted under this Act.

(b) The board has the following responsibilities relating to the practice of pharmacy and to prescription drugs and devices used in this state in the diagnosis, mitigation, and treatment or prevention of injury, illness, and disease:

(1) regulation of the delivery or distribution of prescription drugs and devices, including the right to seize, after notice and hearing, any prescription drugs or

devices posing a hazard to the public health and welfare, but the board may not regulate:

(A) manufacturers' representatives or employees acting in the normal course of business;

(B) persons engaged in the wholesale drug business and registered with the commissioner of health as provided by Chapter 431, Health and Safety Code; or

(C) employees of persons engaged in the wholesale drug business and registered with the commissioner of health as provided by Chapter 431, Health and Safety Code, if the employees are acting in the normal course of business;

(2) specification of minimum standards for professional environment, technical equipment, and security in the prescription dispensing area;

(3) specification of minimum standards for drug storage, maintenance of prescription drug records, and procedures for the delivery, dispensing in a suitable container appropriately labeled, providing of prescription drugs or devices, monitoring of drug therapy, and counseling of patients on proper use of prescription drugs and devices within the practice of pharmacy;

(4) adoption of rules regulating a prescription drug order or medication order transmitted by electronic means; and

(5) ~~annual~~ registration of balances used for the compounding of drugs in pharmacies licensed in this state and the periodic inspection of such balances to verify accuracy.

SECTION 3. Section 17(o), Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(o) The board:

(1) shall establish rules for the use of pharmacy technicians and the duties of those technicians in pharmacies licensed by the board, provided that those technicians are responsible to and directly supervised by a pharmacist licensed by the board;

(2) ~~provided however that the board~~ may not adopt rules or regulations establishing ratios of pharmacists to pharmacy technicians in Class C pharmacies; ~~and~~

(3) shall ~~[(2) may]~~ determine and issue standards for recognition and approval of training programs for pharmacy technicians; and

(4) shall maintain a list of board-approved training programs that meet the standards under Subdivision (3) of this subsection.

SECTION 4. The Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes) is amended by adding Sections 20A and 20B to read as follows:

Sec. 20A. QUALIFICATIONS AND SUPERVISION OF PHARMACY TECHNICIANS; RULES. (a) In establishing rules under Section 17(o) of this Act, the board shall require that a pharmacy technician:

(1) have a high school diploma or a high school equivalency certificate or be working to achieve an equivalent diploma or certificate; and

(2) have passed a board-approved pharmacy technician certification examination.

(b) The board may allow a technician to petition the board for a special exemption from the technician certification requirement if the technician:

(1) is in a county with a population of less than 50,000; or

(2) on September 1, 2001, has been employed as a pharmacy technician in this state for at least 10 years and the technician's employer approves the petition.

(c) The board shall adopt rules that permit a pharmacy technician to perform only nonjudgmental technical duties under the direct supervision of a pharmacist.

Sec. 20B. PHARMACY TECHNICIAN REGISTRATION REQUIRED. (a) A pharmacy technician must register with the board annually or biennially, as determined by board rule, on a form prescribed by the board.

(b) The board may refuse to issue or renew a registration or may suspend or revoke any registration issued by the board if the board determines that the applicant or registrant has:

(1) violated this Act or a rule adopted under this Act;

(2) engaged in gross immorality as that term is defined by the rules of the board;

(3) engaged in any fraud, deceit, or misrepresentation, as those terms are defined by the rules of the board, in seeking a registration to act as a pharmacy technician;

(4) been convicted of a misdemeanor involving moral turpitude or a felony;

(5) a drug or alcohol dependency;

(6) violated the Texas Controlled Substances Act (Chapter 481, Health and Safety Code) or Texas Dangerous Drug Act (Chapter 483, Health and Safety Code) or rules relating to those acts, Sections 485.031-485.035, Health and Safety Code, or a rule adopted under Section 485.011, Health and Safety Code;

(7) violated the pharmacy or drug laws or rules of this state, another state, or the United States; or

(8) had a registration as a pharmacy technician issued by another state revoked, surrendered, or suspended for conduct substantially equivalent to conduct described in Subdivisions (1) through (6) of this subsection.

(c) A certified copy of the record of a state taking action described by Subsection (b)(8) of this section is conclusive evidence of the action taken by the state.

(d) The board may adopt a system in which the registrations of pharmacy technicians expire on various dates during the year.

(e) The board may adopt fees as necessary for the registration of pharmacy technicians.

SECTION 5. Subsection (d), Section 24A, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(d) An applicant who satisfies the continuing education requirement through completion of approved programs must present evidence satisfactory to the board of completion of not fewer than 24 [at least 12] hours of continuing education during the preceding 24 months of the applicant's license period. [~~A licensee who completes more than 12 hours during the preceding license period may carry forward a maximum of 12 hours for the next license period.~~]

SECTION 6. Subsection (g), Section 27A, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(g) The board may add a surcharge of not more than \$10 for each 12 months in a license period to a license or renewal fee authorized under this Act to fund the program to aid impaired pharmacists or pharmacy students.

SECTION 7. Subsection (b), Section 28, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), is amended to read as follows:

(b) A person whose pharmacy license, ~~or~~ license to practice pharmacy, or pharmacy technician registration in this state has been canceled, revoked, or restricted under this Act, whether voluntarily or by action of the board, may, after 12 months from the effective date of the cancellation, revocation, or restriction, petition the board for reinstatement or removal of the restriction of the license. The petition shall be in writing and in the form prescribed by the board. A person petitioning for reinstatement has the burden of proof. On investigation and review of the petition, the board may in

its discretion grant or deny the petition or it may modify its original finding to reflect any circumstances that have changed sufficiently to warrant the modification. If such petition is denied by the board, a subsequent petition may not be considered by the board until 12 months from the date of denial of the previous petition. The board in its discretion may require such person to pass an examination or examinations for reentry into the practice of pharmacy.

SECTION 8. Subsections (a) and (e), Section 29, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), are amended to read as follows:

(a) A pharmacy shall be licensed by the board. A pharmacy license under this Act must be renewed annually or biennially as determined by the board.

(e) The board shall have the discretion to determine under which classifications a pharmacy applicant may be licensed. With respect to Class C pharmacies, the board may:

(1) establish rules for the use of pharmacy technicians and the duties of those technicians in Class C pharmacies licensed by the board, provided that these technicians are responsible to and directly supervised by a pharmacist licensed by the board; provided, however, the board may not adopt any rule setting ratios with respect to pharmacists and pharmacy technicians or limiting the number of pharmacy technicians that may be utilized; and

(2) issue a license to a pharmacy on certification by the appropriate agency that the facility in which the pharmacy is located has substantially completed the requirements for licensing.

SECTION 9. Subsections (d) and (f), Section 31, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), are amended to read as follows:

(d) The board shall remove the name from the register of licensed pharmacies and suspend the license of a pharmacy that does not file a completed application and pay the renewal fee before the license expiration date [June 1 of each year].

(f) The board may adopt a system in which licenses to operate a pharmacy expire on various dates during the year or every other year, as appropriate.

SECTION 10. The Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes) is amended by adding Section 42 to read as follows:

**Sec. 42. DUTY OF PROFESSIONAL LIABILITY INSURER TO REPORT.**

(a) Every insurer or other entity providing pharmacist's professional liability insurance, pharmacy technician professional and supplemental liability insurance, or druggist's professional liability insurance covering a pharmacist, pharmacy technician, or pharmacy license holder in this state shall submit to the board the information described in Subsections (b) and (c) of this section at the time prescribed. The information shall be provided with respect to a notice of claim letter or complaint filed against an insured in a court, if the notice or complaint seeks damages relating to the insured's conduct in providing or failing to provide appropriate service within the scope of pharmaceutical care or services, and with respect to settlement of a claim or lawsuit made on behalf of the insured. If a pharmacist, pharmacy technician, or a pharmacy licensed in this state does not carry or is not covered by pharmacist's professional liability insurance, pharmacy technician professional and supplemental liability insurance, or druggist's professional liability insurance and is insured by a nonadmitted carrier or other entity providing pharmacy professional liability insurance that does not report under this Act, the duty to report information under Subsections (b) and (c) of this section is the responsibility of the pharmacist, pharmacy technician, or pharmacy license holder.

(b) The following information must be furnished to the board not later than the 30th day after receipt by the insurer of the notice of claim letter or complaint from the insured:

(1) the name of the insured and the insured's Texas pharmacy technician registration number or pharmacist or pharmacy license number;

(2) the policy number; and

(3) a copy of the notice of claim letter or complaint.

(c) The board shall, in consultation with the Texas Department of Insurance, adopt rules for reporting additional information as the board may require. Other claim reports required under state and federal law shall be considered in determining the information to be reported, the form of the report, and frequency of reporting under the rules. Additional information that the board may require may include:

(1) the date of any judgment, dismissal, or settlement; and

(2) whether an appeal has been taken and by which party.

(d) An insurer reporting under this section, its agents or employees, or the board or its employees or representatives are not liable for damages in a suit brought by any person or entity for reporting as required by this section or for any other action taken under this section.

(e) Information submitted to the board under this section and the fact that the information has been submitted to the board may not be:

(1) offered in evidence or used in any manner in the trial of a suit described in this section; or

(2) used in any manner to determine the eligibility or credentialing of a pharmacy to participate in a health insurance plan defined by the Insurance Code.

(f) Information submitted under this section is confidential and is not subject to disclosure under Chapter 552, Government Code. The board shall adopt rules to ensure the confidentiality of information submitted under this section.

(g) Except as otherwise provided in this subsection, a report received by the board under this section is not a complaint for which a board investigation is required. The board shall review the information relating to a pharmacist, pharmacy technician, or pharmacy license holder against whom at least three professional liability claims have been reported within a five-year period in the same manner as if a complaint against the pharmacist, pharmacy technician, or pharmacy license holder had been made under Section 17A of this Act.

(h) The Texas Department of Insurance may impose on any insurer subject to this Act sanctions authorized by Section 7, Article 1.10, Insurance Code, if the insurer fails to report information as required by this section.

SECTION 11. (a) Except as provided by Subsection (d) of this section, this Act takes effect September 1, 1999.

(b) The change in law made by this Act to Subsection (d), Section 24A, Subsection (g), Section 27A, and Subsection (d), Section 31, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), applies only to an application for issuance of a license or for renewal of a license that is filed on or after the effective date of this Act. An application for issuance or renewal of a license filed before the effective date of this Act is governed by the law in effect on the date the application was filed, and the former law is continued in effect for that purpose.

(c) The change in law made by this Act to Subsection (b), Section 28, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), applies only to a petition for reinstatement of a license filed on or after the effective date of this Act. A petition for reinstatement 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.

(d) Section 20A, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), as added by this Act, takes effect January 1, 2001. Section 20B, Texas Pharmacy Act (Article 4542a-1, Vernon's Texas Civil Statutes), as added by this Act, takes effect September 1, 2001.

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.

The Conference Committee Report was filed with the Secretary of the Senate.

### CONFERENCE COMMITTEE REPORT ON SENATE BILL 781

Senator Madla submitted the following Conference Committee Report:

Austin, Texas  
May 20, 1999

Honorable Rick Perry  
President of the Senate

Honorable James E. "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 **SB 781** have 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  
CARONA  
ARMBRISTER  
JACKSON  
NIXON

On the part of the Senate

BAILEY  
SMITHEE  
EILAND  
OLIVO  
SEAMAN

On the part of the House

#### A BILL TO BE ENTITLED AN ACT

relating to contracts between podiatrists and health care plans.

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

SECTION 1. Section 3, Article 3.70-3C, Insurance Code, as added by Chapter 1024, Acts of the 75th Legislature, Regular Session, 1997, is amended by adding Subsection (n) to read as follows:

(n) A preferred provider contract between an insurer and a podiatrist licensed by the Texas State Board of Podiatric Medical Examiners must provide that:

(1) the podiatrist may request, and the insurer shall provide not later than the 30th day after the date of the request, a copy of the coding guidelines and payment schedules applicable to the compensation that the podiatrist will receive under the contract for services;

(2) the insurer may not unilaterally make material retroactive revisions to the coding guidelines and payment schedules; and

(3) the podiatrist may, practicing within the scope of the law regulating podiatry, furnish x-rays and nonprefabricated orthotics covered by the health insurance policy.

SECTION 2. Section 18A, Texas Health Maintenance Organization Act (Article 20A.18A, Vernon's Texas Insurance Code), as added by Chapter 1026, Acts of the 75th Legislature, Regular Session, 1997, is amended by adding Subsection (j) to read as follows:

(j) A contract between a health maintenance organization and a podiatrist licensed by the Texas State Board of Podiatric Medical Examiners must provide that:

(1) the podiatrist may request, and the insurer shall provide not later than the 30th day after the date of the request, a copy of the coding guidelines and payment schedules applicable to the compensation that the podiatrist will receive under the contract for services;

(2) the insurer may not unilaterally make material retroactive revisions to the coding guidelines and payment schedules; and

(3) the podiatrist may, practicing within the scope of the law regulating podiatry, furnish x-rays and nonprefabricated orthotics covered by the evidence of coverage.

SECTION 3. This Act takes effect September 1, 1999, and applies only to a contract between an insurer or health maintenance organization and a podiatrist that is entered into on or after the effective date of this Act. A contract entered into before the effective date of this Act is 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 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.

The Conference Committee Report was filed with the Secretary of the Senate.

### **CONFERENCE COMMITTEE REPORT ON HOUSE BILL 1945**

Senator Ratliff submitted the following Conference Committee Report:

Austin, Texas  
May 23, 1999

Honorable Rick Perry  
President of the Senate

Honorable James E. "Pete" Laney  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1945** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

RATLIFF

TRUAN

DUNCAN

FRASER

MONCRIEF

On the part of the Senate

JUNELL

WEST

COLEMAN

GALLEGO

HEFLIN

On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.



**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1676**

Senator Ratliff submitted the following Conference Committee Report:

Austin, Texas  
May 23, 1999

Honorable Rick Perry  
President of the Senate

Honorable James E. "Pete" Laney  
Speaker of the House of Representatives

Sirs:

We, Your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on **HB 1676** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

RATLIFF

JUNELL

TRUAN

WEST

DUNCAN

COLEMAN

FRASER

GALLEGO

MONCRIEF

HEFLIN

On the part of the Senate

On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
HOUSE BILL 1**

Senator Ratliff submitted the following Conference Committee Report:

Austin, Texas  
May 24, 1999

Honorable Rick Perry  
President of the Senate

Honorable James E. "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 1** have had the same under consideration, and beg to report it back with the recommendation that it do pass.

RATLIFF

JUNELL

TRUAN

WEST

MONCRIEF

COLEMAN

DUNCAN

GALLEGO

FRASER

HEFLIN

On the part of the Senate

On the part of the House

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 801**

Senator Ellis submitted the following Conference Committee Report:

Austin, Texas  
May 21, 1999

Honorable Rick Perry  
President of the Senate

Honorable James E. "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 **SB 801** have 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  
BERNSEN  
LUCIO  
SHAPLEIGH  
WENTWORTH

MAXEY  
BAILEY  
DANBURG  
MARCHANT

On the part of the Senate

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to electronic access to certain state agency information.

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

SECTION 1. Subchapter A, Chapter 2001, Government Code, is amended by adding Section 2001.006 to read as follows:

Sec. 2001.006. CERTAIN EXPLANATORY INFORMATION MADE AVAILABLE THROUGH INTERNET. (a) A state agency shall make available through a generally accessible Internet site:

(1) the text of its rules; and

(2) any material, such as a letter, opinion, or compliance manual, that explains or interprets one or more of its rules and that the agency has issued for general distribution to persons affected by one or more of its rules.

(b) A state agency shall design the generally accessible Internet site so that a member of the public may send questions about the agency's rules to the agency electronically and receive responses to the questions from the agency electronically. If the agency's rules and the agency's explanatory and interpretive materials are made available at different Internet sites, both sites shall be designed in compliance with this subsection.

(c) A state agency shall design the generally accessible Internet site so that it conforms to generally acceptable standards for Internet accessibility for people with disabilities.

(d) A state agency may comply with this section through the actions of another agency, such as the secretary of state, on the agency's behalf.

SECTION 2. Section 2054.096, Government Code, is amended to read as follows:

Sec. 2054.096. CONTENT OF AGENCY STRATEGIC PLAN. (a) Each agency strategic plan must be consistent with the state strategic plan and include:

(1) a statement of the state agency's goals, objectives, and programs as found in the agency's legislative appropriations request;

(2) a description of the agency's major data bases and their applications;

(3) a description of the agency's information resources management organizations, policies, and practices;

(4) a description of interagency computer networks in which the agency participates;

(5) a statement of the strategic objectives of the agency relating to information resources management for the next five fiscal years, beginning with the fiscal year during which the plan is submitted, with a description of how those objectives help achieve the agency's programs and goals, and a description of how those objectives support and promote the goals and policies of the state strategic plan; and

(6) other planning components that the department may prescribe.

(b) Each state agency that receives information from members of the public or from regulated persons by means of a form or that receives payments of money from members of the public or from regulated persons must also include in its strategic plan a plan for receiving the forms or the payments through the Internet or through other electronic means. The department shall assist state agencies in developing this portion of the strategic plan. The plan must:

(1) include appropriate security measures that follow guidelines established by the department;

(2) include performance measures that will allow the department and the legislature to evaluate the agency's progress in implementing the plan; and

(3) specify the time during which the agency will fully implement the plan.

SECTION 3. Subchapter F, Chapter 2054, Government Code, is amended by adding Section 2054.121 to read as follows:

Sec. 2054.121. LINKING AND INDEXING INTERNET SITES. (a) All state agencies that maintain a generally accessible Internet site shall cooperate to facilitate useful electronic links among the sites. State agencies shall attempt to link their sites in such a manner that different sites from which persons can be expected to need information concurrently are linked.

(b) Each state agency that maintains a generally accessible Internet site shall establish the site so that the site can be located easily through electronic means.

(c) The department on request shall assist an agency to comply with this section.

SECTION 4. Each state agency shall phase in, in the most cost-effective manner and in accordance with available appropriations, the changes in law made by this Act that require the agency to make information available on the Internet.

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

The Conference Committee Report was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON  
SENATE BILL 61**

Senator Madla submitted the following Conference Committee Report:

Austin, Texas  
May 23, 1999

Honorable Rick Perry  
President of the Senate

Honorable James E. "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 **SB 61** have 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  
WENTWORTH  
NIXON  
CARONA

CLARK  
URESTI  
CHRISTIAN  
HILDERBRAN  
MAXEY

On the part of the Senate

On the part of the House

A BILL TO BE ENTITLED  
AN ACT

relating to regulation of certain body piercing facilities; providing penalties.

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

SECTION 1. The heading to Chapter 146, Health and Safety Code, is amended to read as follows:

CHAPTER 146. TATTOO AND CERTAIN BODY PIERCING STUDIOS

SECTION 2. Section 146.001, Health and Safety Code, is amended to read as follows:

Sec. 146.001. DEFINITIONS. In this chapter:

(1) "Body piercing" means the creation of an opening in an individual's body, other than in an individual's earlobe, to insert jewelry or another decoration.

(2) "Body piercing studio" means a facility in which body piercing is performed.

(3) "Tattoo" means the practice of producing an indelible mark or figure on the human body by scarring or inserting a pigment under the skin using needles, scalpels, or other related equipment.

(4) [~~2~~] "Tattooist" means a person who performs tattooing.

(5) [~~3~~] "Tattoo studio" means an establishment or facility in which tattooing is performed.

(6) [~~4~~] "Temporary location" means a fixed location at which an individual operator performs tattooing or body piercing for a specified period of not more than seven days in conjunction with a single event or celebration, where the primary function of the event or celebration is tattooing or body piercing.

SECTION 3. Chapter 146, Health and Safety Code, is amended by amending Section 146.002 and adding Section 146.0025 to read as follows:

Sec. 146.002. LICENSE REQUIRED. (a) A person may not conduct, operate, or maintain a tattoo studio unless the person holds a license issued by the department to operate the tattoo studio. Except as provided by Section 146.0025, a person may not conduct, operate, or maintain a body piercing studio unless the person holds a license issued by the department to operate the body piercing studio.

(b) Except as provided by Section 146.0025, a [A] person may not practice tattooing or body piercing at a temporary location unless the person holds a temporary location license for tattooing or body piercing, as appropriate, issued by the department.

(c) The license must be displayed in a prominent place in the tattoo or body piercing studio or temporary location.

(d) Tattooing and body piercing are [is] permitted only at a location that is in compliance with this chapter and rules adopted under this chapter.

Sec. 146.0025. EXEMPTIONS FROM LICENSING REQUIREMENTS; EAR PIERCING ESTABLISHMENTS EXEMPT. (a) [~~is~~] This chapter does not apply to:

(1) a medical facility licensed under other law; [~~or~~]

(2) an office or clinic of a person licensed by the Texas State Board of Medical Examiners;

(3) a person who performs only ear piercing; or

(4) a facility in which only ear piercing is performed.

(b) A person who conducts, operates, or maintains a facility, office, or clinic described by Subsection (a)(1), (2), or (4) is not required to obtain a license under this chapter to operate that facility.

SECTION 4. Subsections (a) and (b), Section 146.003, Health and Safety Code, are amended to read as follows:

(a) To receive a tattoo studio license, body piercing studio license, or temporary location license, a person must submit a signed, verified license application to the department on a form prescribed by the department and must submit an application fee.

(b) On receipt of a tattoo studio or body piercing studio license application, the department shall inspect the proposed tattoo or body piercing studio to determine compliance with this chapter and rules adopted by the board under this chapter. In addition, the department shall request confirmation from the appropriate building and zoning officials in the municipality or county in which the studio is proposed to be located to determine compliance with existing building and zoning codes applicable to the studio. The department may issue a license for a tattoo or body piercing studio after determining that the studio is in compliance with applicable statutes, rules, and building and zoning codes.

SECTION 5. Section 146.004, Health and Safety Code, is amended to read as follows:

Sec. 146.004. LICENSE TERM; RENEWAL. (a) A tattoo studio or body piercing studio license is valid for one year from the date of issuance. A temporary tattooing or body piercing location license is valid for a specified period not to exceed seven days.

(b) A tattoo studio or body piercing studio license may be renewed annually on payment of the required renewal fee.

SECTION 6. Subsection (a), Section 146.006, Health and Safety Code, is amended to read as follows:

(a) A person holding a tattoo studio or body piercing studio license under this chapter who intends to change the location of the tattoo or body piercing studio shall notify the department in writing of that intent not less than 30 days before the change

is to occur. The notice shall include the street address of the new location and the name and residence address of the individual in charge of the business at the new location.

SECTION 7. Section 146.007, Health and Safety Code, is amended to read as follows:

Sec. 146.007. COMPLIANCE WITH CHAPTER AND RULES. A person who owns, operates, or maintains a tattoo or body piercing studio or practices tattooing or body piercing at a temporary location shall comply with this chapter and rules adopted under this chapter.

SECTION 8. Section 146.008, Health and Safety Code, is amended to read as follows:

Sec. 146.008. ASEPTIC TECHNIQUES. A person who owns, operates, or maintains a tattoo or body piercing studio and each tattooist or person who performs body piercing who works in the studio or at a temporary location shall take precautions to prevent the spread of infection, including:

- (1) using germicidal soap to clean the hands of the tattooist or person who performs body piercing and the skin area of the client to be tattooed or pierced;
- (2) wearing clean apparel and rubber gloves;
- (3) using sterile tools and equipment as provided by Section 146.011; and
- (4) keeping the tattoo or body piercing studio or temporary location in a sanitary condition.

SECTION 9. Section 146.009, Health and Safety Code, is amended to read as follows:

Sec. 146.009. BUILDING AND LOCATION. A tattoo or body piercing studio must be in a permanent, nondwelling building located in an area in which the location is permissible under local zoning codes, if any.

SECTION 10. Section 146.010, Health and Safety Code, is amended to read as follows:

Sec. 146.010. SANITATION REQUIREMENTS. (a) The board by rule shall establish sanitation requirements for tattoo and body piercing studios and any other necessary requirements relating to the building or part of the building in which a tattoo or body piercing studio is located.

(b) A person who owns, operates, or maintains a tattoo or body piercing studio shall comply with the rules adopted under this section.

SECTION 11. Subsections (a) and (b), Section 146.011, Health and Safety Code, are amended to read as follows:

(a) A tattooist or person who performs body piercing shall use tools and equipment for tattooing or body piercing that have been properly sterilized and kept in a sterile condition.

(b) A tattooist or person who performs body piercing shall sterilize tools and equipment used on one client before using them on another client.

SECTION 12. Chapter 146, Health and Safety Code, is amended by adding Sections 146.0124 and 146.0125 to read as follows:

Sec. 146.0124. BODY PIERCING PROHIBITED FOR CERTAIN PERSONS. A person may not perform body piercing if the person suspects that the individual on whom the body piercing is to be performed is under the influence of alcohol or drugs.

Sec. 146.0125. BODY PIERCING PROHIBITED WITHOUT PARENTAL CONSENT; EXCEPTION. (a) A person may not perform body piercing on an individual younger than 18 years of age without the consent of a parent, managing conservator, or guardian of the individual.

(b) The consent must indicate the part of the person's body that may be pierced.

(c) The consent required by Subsections (a) and (b) may be satisfied by:

(1) written and notarized consent by the individual's parent or guardian; or

(2) the individual's parent or guardian:

(A) being physically present at the body piercing studio at the time the body piercing is performed;

(B) executing an affidavit stating that the person is the parent or guardian of the individual on whom the body piercing is to be performed;

(C) presenting evidence of the person's identity to the person who will perform the body piercing; and

(D) presenting evidence of the person's status as parent or guardian of the individual who will receive the body piercing.

SECTION 13. Subsection (a), Section 146.013, Health and Safety Code, is amended to read as follows:

(a) A tattooist shall maintain a permanent record of each person tattooed by the tattooist for a period established by the board. A person who performs body piercing shall maintain a permanent record of each individual whose body is pierced by the person for a period established by the board.

SECTION 14. Section 146.014, Health and Safety Code, is amended to read as follows:

Sec. 146.014. REPORT OF INFECTION. A person who owns, operates, or maintains a tattoo or body piercing studio shall report to the department any infection resulting from tattooing or body piercing as soon as it becomes known.

SECTION 15. Section 146.016, Health and Safety Code, is amended to read as follows:

Sec. 146.016. INSPECTIONS. (a) The department shall inspect a tattoo or body piercing studio to determine if the studio complies with this chapter and the rules adopted under this chapter.

(b) A person who owns, operates, or maintains a tattoo or body piercing studio shall allow inspection of the studio by the department at any time the studio is in operation.

(c) The department shall inform the person who owns, operates, or maintains a tattoo or body piercing studio of any violation discovered by the department under this section and shall give the person a reasonable period in which to take necessary corrective action.

SECTION 16. (a) The Texas Board of Health shall adopt rules to implement the change in law made by this Act to Chapter 146, Health and Safety Code, not later than January 1, 2000.

(b) The change in law made by this Act applies only to the regulation of body piercing, including the operations of a body piercing studio and the activities of a person who performs body piercing, on or after June 1, 2000. A body piercing studio is not required to be licensed under Chapter 146, Health and Safety Code, as amended by this Act, before June 1, 2000.

SECTION 17. Except as provided by Subsection (b) of Section 16 of this Act, this Act takes effect September 1, 1999.

SECTION 18. 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.

The Conference Committee Report was filed with the Secretary of the Senate.

**MEMORIAL RESOLUTIONS**

**SR 1077** - by Harris: In memory of L. T. "Tolly" Wilson of Fort Worth.

**SR 1083** - by Barrientos: In memory of Patricia J. Dobbs of Austin.

**CONGRATULATORY RESOLUTIONS**

**SR 1073** - by Lindsay: Congratulating Imran Shiraz Merchant of Spring.

**SR 1074** - by Lindsay: Congratulating Craig Roberts of Spring.

**SR 1078** - by Ratliff: Congratulating Frank "Ron" M. Wright IV of Longview.

**SR 1079** - by Cain: Congratulating Ricardo Labrador.

**SR 1080** - by Cain: Congratulating Philip Newman of Tyler.

**SR 1081** - by Cain: Congratulating Bobbye Rae Hill of Tyler.

**SR 1082** - by Ellis: Congratulating Earl Lavern Pryor.

**SR 1084** - by Barrientos: Commending the United Daughters of the Confederacy.

**ADJOURNMENT**

On motion of Senator Truan, the Senate at 5:20 p.m. adjourned, in memory of Bernice Lester Rhem and Patricia J. Dobbs, both of Austin, until 10:00 a.m. tomorrow.

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**APPENDIX**

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**SENT TO SECRETARY OF STATE**

May 24, 1999

**SJR 21**

**SENT TO GOVERNOR**

May 24, 1999

**SB 107, SB 111, SB 149, SB 185, SB 187, SB 192, SB 201, SB 203, SB 205, SB 232, SB 306, SB 483, SB 583, SB 778, SB 1107, SB 1153, SB 1303, SCR 82, SCR 84**



**In Memory**

of

**Bernice Lester Rhem**

Senator Barrientos offered the following resolution:

**(Senate Resolution 999)**

WHEREAS, It is with great sorrow that the Texas Senate joins with the extended family of The Austin Club in mourning the loss of Bernice Lester Rhem, who passed away April 28, 1999; and

WHEREAS, All of those who lived and worked with this distinguished gentleman were full of admiration for the kindness he extended so freely to everyone and the devotion he showed his family; the pews of Greater Mount Zion Baptist Church overflowed with people paying tribute to this valued friend; and

WHEREAS, Born in Rockdale, Texas, Mr. Rhem graduated from Aycock High School, where he was an exceptional athlete and earned a baseball scholarship to Huston-Tillotson College; his college days were cut short, for in 1953 he was called to serve his country in the United States Army; and

WHEREAS, Completing his tour of duty in 1956, he was approached by the Pittsburgh Pirates to play professional baseball; he had a lifelong passion for sports, yet this man with an understanding of the value of an education declined this opportunity in order to return to college; and

WHEREAS, Bernice Rhem married Florence Henderson in 1958, and they had one daughter, Joselyn; and

WHEREAS, Over the years Mr. Rhem amassed countless friends while working at the Driskill Hotel, the Citadel Club, the Headliners Club, and The Austin Club; his sparkling sense of humor endeared him to all who crossed his path; and

WHEREAS, A devoted husband, father, grandfather, brother, uncle, and friend, Bernice Rhem leaves many enduring memories for all to treasure; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 76th Legislature, hereby extend sincere condolences to those held dear by Bernice Lester Rhem, especially his daughter, Joselyn, and his grandson, Scott; and, be it further

RESOLVED, That a copy of this Resolution be prepared for members of his family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of Bernice Lester Rhem.

BARRIENTOS  
GALLEGOS

The resolution was read.

On motion of Senator Truan and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Barrientos and by unanimous consent, the resolution was adopted by a rising vote of the Senate.

Senator Barrientos, joined by Senator Gallegos, was recognized and introduced to the Senate family members of Bernice Lester Rhem: Joselyn Rhem, his daughter; Scott Rhem, his grandson; Edward Rhem, his brother; Thomas Henderson, his nephew; Helen Rhem, his sister-in-law; and Karen and Amber Mays, his cousins; accompanied by Roy McArthur of The Austin Club.

The Senate welcomed its guests and extended its condolences.

**In Memory**  
**of**  
**Patricia J. Dobbs**  
**(Senate Resolution 1083)**

WHEREAS, The Senate of the State of Texas joins the citizens of Austin in mourning the loss of beloved educator Patricia J. Dobbs, who died May 19, 1999, at the age of 60; and

WHEREAS, Born in Los Angeles on November 25, 1938, Pat Dobbs was raised in Minnesota; she earned her bachelor of science degree in education from The University of Texas at Austin in 1970 and her master of arts degree in English and history from Southwest Texas State University in 1974; and

WHEREAS, Dedicated to education, Pat Dobbs was a classroom teacher for 28 years and a part-time college instructor for 24 years; 20 years ago, Mrs. Dobbs gave up lecturing to her students to use entirely different methods; using an interactive approach, she initiated role playing, mock elections, simulations, and student-created bulletin boards and rooms; and

WHEREAS, Under the auspices of Mrs. Dobbs, her students won many awards: in 1987, her students won first place in the Austin Independent School District's Mock Trial Competition; in 1994, one of her students won the Austin Parliamentary Club's award for the winning essay in parliamentary procedure; and in 1997, her students won the Capital Area Food Certificate for donating over 1,700 pounds of food; and

WHEREAS, Renowned for her effectiveness in the classroom, Pat Dobbs had collaborated with her daughter, Kyleen Dobbs, a senior economics and government teacher at Pflugerville High School, to publish 26 performance-based assessment lesson plans; and

WHEREAS, Throughout the last 10 years, Pat Dobbs had shared her success in workshops with the Texas State Bar, West Publishing Company, the Austin Independent School District, and Travis County Human Services; and

WHEREAS, She had published curricula which included co-authorship of Austin Independent School District's advanced social studies course in Street Law and co-authorship of Austin Independent School District's Government Gifted and Talented syllabus; and

WHEREAS, The winner of countless honors, Mrs. Dobbs was the recipient of the Austin Association of Teachers Creative Teaching Award in 1987, the Leon Jaworski Award for Teaching Excellence in Law Focused Education in 1990, and the Leavey Award for Excellence in Private Enterprise Education by the Freedom Foundation in 1992; and

WHEREAS, This distinguished teacher affected positively the lives of thousands of young people; the most important thing she communicated to her students was the importance of learning about the issues and taking part in the political process; many teenagers' interest in history, politics, or law

bloomed under her guidance; the death of such an extraordinarily gifted teacher is an irreplaceable loss to her students and the community; she will be greatly missed; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 76th Legislature, hereby extend sincere condolences to the members of her family: her husband, Dave Dobbs; her daughters, Wendy Rolan and Kyleen Dobbs; her son, Kevin Dobbs; her mother, Barbara Wesely; her sister, Delores Wells; and her granddaughter, Tiffany Rolan; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the members of her family as an expression of deepest sympathy from the Texas Senate, and that when the Senate adjourns this day, it do so in memory of Patricia J. Dobbs.

BARRIENTOS