

# HOUSE JOURNAL

SEVENTY-SEVENTH LEGISLATURE, REGULAR SESSION

## PROCEEDINGS

EIGHTY-FIRST DAY — THURSDAY, MAY 24, 2001

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

The roll of the house was called and a quorum was announced present (Record 533).

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

Absent, Excused — Hilbert; Jones, E.; West.

The invocation was offered by Pastor David Roberts, Central Baptist Church, Livingston, as follows:

Our most gracious and creative heavenly Father, you are incredible, magnificent, and awesome. You have created every one of us and given us this gift we call "today." As we accept this gift, remind us of the responsibilities and opportunities within the bright, shining wrapping. Bless these public servants; there is much they want to accomplish in these few days. In their haste, may their decisions be fair, considerate, and most of all, inspired by you. Bless those who lead them, bless those who assist them, and bless those they have left at home.

In the name of he whom we follow and commit our lives. Amen.

### **LEAVES OF ABSENCE GRANTED**

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

E. Jones on motion of Ellis.

The following member was granted leave of absence for today because of a death in the family:

West on motion of B. Turner.

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

Hilbert on motion of Haggerty.

### **MESSAGE FROM THE SENATE**

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 1).

### **CAPITOL PHYSICIAN**

The speaker recognized Representative Merritt who presented Dr. Michael McShan of Kilgore as the "Doctor for the Day."

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

### **HR 1178 - ADOPTED (by Hardcastle)**

Representative Hardcastle moved to suspend all necessary rules to take up and consider at this time **HR 1178**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HR 1178**, Honoring Trent McKnight of Throckmorton on his tenure as president of the FFA.

**HR 1178** was read and was adopted without objection.

### **INTRODUCTION OF GUEST**

The speaker recognized Representative Hardcastle, who introduced Trent McKnight, 2001 National FFA president.

### **HCR 304 - ADOPTED (by Junell)**

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

The motion prevailed without objection.

The following resolution was laid before the house:

**HCR 304**, Honoring Colby Donaldson of Dallas on his award.

**HCR 304** was read and was adopted without objection.

### **INTRODUCTION OF GUEST**

The speaker recognized Representative Junell, who introduced Colby Donaldson, finalist from the television series "Survivor."

**LEAVE OF ABSENCE GRANTED**

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

Rangel on motion of Villarreal.

**HR 1238 - ADOPTED**  
**(by Naishtat)**

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

The motion prevailed without objection.

The following resolution was laid before the house:

**HR 1238**, Recognizing May 24, 2001, as Pat Cole Appreciation Day in Texas.

**HR 1238** was read and was adopted without objection.

On motion of Representative Danburg, the names of all the members of the house were added to **HR 1238** as signers thereof.

**INTRODUCTION OF GUESTS**

The speaker recognized Representative Maxey, who introduced Pat Cole and her friends and family. Dr. Cole briefly addressed the house.

(Speaker pro tempore in the chair)

**HCR 310 - ADOPTED**  
**(by Homer)**

Representative Homer moved to suspend all necessary rules to take up and consider at this time **HCR 310**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HCR 310**, Congratulating L. C. Stout on his retirement as superintendent of the Prairiland Independent School District.

**HCR 310** was adopted without objection.

**HCR 311 - ADOPTED**  
**(by Homer)**

Representative Homer moved to suspend all necessary rules to take up and consider at this time **HCR 311**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HCR 311**, Honoring W. Carl McEachern on his retirement as superintendent of the Bonham Independent School District.

**HCR 311** was adopted without objection.

**HCR 312 - ADOPTED**  
**(by Homer)**

Representative Homer moved to suspend all necessary rules to take up and consider at this time **HCR 312**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HCR 312**, Honoring H. L. Milton on his retirement as superintendent of the Honey Grove Independent School District.

**HCR 312** was adopted without objection.

**HR 1228 - ADOPTED**  
**(by Pitts)**

Representative Pitts moved to suspend all necessary rules to take up and consider at this time **HR 1228**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HR 1228**, Honoring Elizabeth Lee Martin of Austin on her retirement from Southwestern Bell.

**HR 1228** was read and was adopted without objection.

On motion of Representative Goolsby, the names of all the members of the house were added to **HR 1228** as signers thereof.

**HR 1209 - ADOPTED**  
**(by Kitchen, et al.)**

Representative Kitchen moved to suspend all necessary rules to take up and consider at this time **HR 1209**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HR 1209**, In memory of Charles Alan Wright of Austin.

**HR 1209** was read and was unanimously adopted by a rising vote.

On motion of Representative G. Lewis, the names of all the members of the house were added to **HR 1209** as signers thereof.

**INTRODUCTION OF GUESTS**

The chair recognized Representative Kitchen, who introduced the family of Charles Alan Wright. The memory of Professor Wright was honored for his achievements as a constitutional law expert and as a distinguished professor at The University of Texas School of Law.

**HR 1157 - ADOPTED**  
**(by Kuempel)**

Representative Kuempel moved to suspend all necessary rules to take up and consider at this time **HR 1157**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HR 1157**, Honoring Elton Bohmann of Seguin for his significant accomplishments.

**HR 1157** was adopted without objection.

**HR 1189 - ADOPTED**  
(by **B. Turner**)

Representative B. Turner moved to suspend all necessary rules to take up and consider at this time **HR 1189**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HR 1189**, Honoring the Llano High School Concert Ensemble and Marching Ensemble.

**HR 1189** was adopted without objection.

**HR 1214 - ADOPTED**  
(by **Driver**)

Representative Driver moved to suspend all necessary rules to take up and consider at this time **HR 1214**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HR 1214**, Honoring James DeWitt on his selection as a Fulbright Scholar.

**HR 1214** was read and was adopted without objection.

**HR 1168 - ADOPTED**  
(by **Farrar**)

Representative Farrar moved to suspend all necessary rules to take up and consider at this time **HR 1168**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HR 1168**, Congratulating Melissa Marino of Houston on her graduation from Texas School for the Deaf.

**HR 1168** was adopted without objection.

**HR 1244 - ADOPTED**  
(by **Farrar**)

Representative Farrar moved to suspend all necessary rules to take up and consider at this time **HR 1244**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HR 1244**, Congratulating Sara Cecilia Galvan on being named a 2001 Rhodes Scholar.

**HR 1244** was adopted without objection.

**HR 1220 - ADOPTED**  
(by Ellis)

Representative Ellis moved to suspend all necessary rules to take up and consider at this time **HR 1220**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HR 1220**, Honoring Lillian Condra on her retirement.

**HR 1220** was read and was adopted without objection.

On motion of Representative R. Lewis, the names of all the members of the house were added to **HR 1220** as signers thereof.

**INTRODUCTION OF GUESTS**

The chair recognized Representative Ellis, who introduced Lillian Condra and her family. Lillian Condra was honored for her years of dedicated service in offices of members of the Texas House of Representatives.

**LEAVES OF ABSENCE GRANTED**

The following member was granted leave of absence for the remainder of today to attend a meeting of the conference committee on **HB 3343**:

Sadler on motion of R. Lewis.

The following members were granted leaves of absence temporarily for today to attend a meeting of the conference committee on **HB 3343**:

Hochberg on motion of R. Lewis.

Marchant on motion of R. Lewis.

Pitts on motion of R. Lewis.

Tillery on motion of R. Lewis.

**HR 1187 - ADOPTED**  
(by Williams, Keffer, G. Lewis, S. Turner, and Kolkhorst)

Representative Williams moved to suspend all necessary rules to take up and consider at this time **HR 1187**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HR 1187**, Honoring the citizens of Grimes County for their peaceful resolution of a racial issue.

**HR 1187** was read and was adopted without objection.

**INTRODUCTION OF GUESTS**

The chair recognized Representative Williams, who introduced James Mable, Bill Terrell, Jr., and members of the Terrell family.

**INTRODUCTION OF GUESTS**

The chair recognized Representatives McReynolds and J. Davis, who introduced Vernon and Elizabeth Beasley and their family to celebrate the occasion of Vernon and Elizabeth Beasley's 50th wedding anniversary.

(Edwards in the chair)

**HR 1247 - ADOPTED  
(by Solis)**

Representative Solis moved to suspend all necessary rules to take up and consider at this time **HR 1247**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HR 1247**, Honoring Sonia Perez of McAllen for her receipt of a 2001 Outstanding Young Texas Ex Award.

**HR 1247** was adopted without objection.

On motion of Representative Martinez Fischer, the names of all the members of the house were added to **HR 1247** as signers thereof.

(Speaker pro tempore in the chair)

**HR 1214 - MOTION TO ADD NAMES**

On motion of Representative Edwards, the names of all the members of the house were added to **HR 1214** as signers thereof.

**HR 1237 - ADOPTED  
(by Puente)**

Representative Puente moved to suspend all necessary rules to take up and consider at this time **HR 1237**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HR 1237**, In memory of Sergeant Paul Rangel, Jr., of the San Antonio Police Department.

**HR 1237** was read and was unanimously adopted by a rising vote.

On motion of Representative Corte, the names of all the members of the house were added to **HR 1237** as signers thereof.

**INTRODUCTION OF GUESTS**

The chair recognized Representative Puente, who introduced the family and friends of Sergeant Paul Rangel, Jr.

**HR 1148 - ADOPTED**  
**(by Talton)**

Representative Talton moved to suspend all necessary rules to take up and consider at this time **HR 1148**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HR 1148**, Honoring the National Academic League team of Thompson Intermediate School in Pasadena for placing first in the national finals.

**HR 1148** was read and was adopted without objection.

**HCR 308 - ADOPTED**  
**(by Haggerty and Allen)**

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

The motion prevailed without objection.

The following resolution was laid before the house:

**HCR 308**, Honoring Wayne Scott of Huntsville on his impending retirement as executive director of the Texas Department of Criminal Justice.

**HCR 308** was read and was adopted without objection.

On motion of Representative Ellis, the names of all the members of the house were added to **HCR 308** as signers thereof.

**INTRODUCTION OF GUEST**

The chair recognized Representative Haggerty, who introduced Wayne Scott who briefly addressed the house.

**HR 1233 - ADOPTED**  
**(by D. Jones)**

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

The motion prevailed without objection.

The following resolution was laid before the house:

**HR 1233**, Honoring State Representative Tommy Merritt.

**HR 1233** was read and was adopted without objection. (Berman, B. Brown, Callegari, Christian, Clark, Crabb, Delisi, Denny, Green, Grusendorf, Hamric, Hartnett, Heflin, Hill, Howard, Hupp, P. King, Krusee, Madden, Miller, Mowery, Nixon, E. Reyna, Seaman, Shields, Talton, Wohlgemuth, and Woolley recorded voting no)

On motion of Representative Walker, the names of all the members of the house were added to **HR 1233** as signers thereof. The following members requested that their names be removed from the names-added list to **HR 1233**: Berman, B. Brown, Callegari, Christian, Clark, Crabb, Delisi, Denny, Green,



Grusendorf, Hamric, Hartnett, Heflin, Hill, Howard, Hupp, P. King, Krusee, Madden, Miller, Mowery, Nixon, E. Reyna, Seaman, Shields, Talton, Wohlgemuth, and Woolley.

### STATEMENT OF VOTE

I have asked that my name be removed from this resolution and have requested that I be shown as voting no due to my concern that this resolution violates house tradition by appearing to be campaign-related.

Grusendorf

### INTRODUCTION OF GUESTS

The chair recognized Representative Chavez, who introduced Juanita H. Quinteros and her colleagues.

**HR 824**, honoring Juanita H. Quinteros of El Paso for her accomplishments, having been previously adopted, was read.

#### **HR 1246 - ADOPTED (by Raymond)**

Representative Raymond moved to suspend all necessary rules to take up and consider at this time **HR 1246**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HR 1246**, In memory of the Honorable Oscar M. Laurel of Laredo.

**HR 1246** was unanimously adopted by a rising vote.

#### **HR 1239 - ADOPTED (by Goolsby)**

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

The motion prevailed without objection.

The following resolution was laid before the house:

#### **HR 1239**

WHEREAS, It has long been the custom of the House of Representatives of the State of Texas to honor the children of its members by electing them to the office of mascot; and

WHEREAS, A roster of mascot candidates eligible for this special recognition under the rules of this house has been compiled; now, therefore, be it

RESOLVED, That the House of Representatives of the 77th Texas Legislature hereby elect the following children of house members to the honorary office of mascot:

Robert Tucker Eiland, son of Representative Craig Eiland;

Kamryn Elaine Green and Reagan Kyle Green, children of Representative Rick Green;

Harrison Wade Homer, son of Representative Mark Homer;  
 Michael Benjamin Isett, son of Representative Carl Isett;  
 Ryan Edward Janek and William Walker Janek, sons of Representative  
 Kyle Janek;

Lois Kate Kolkhorst, daughter of Representative Lois W. Kolkhorst;  
 Dominic Michael Newman-Menendez, son of Representative Jose  
 Menendez;

Luke Michael Puente, son of Representative Robert Puente;  
 Ryan Rubio Raymond, son of Representative Richard Raymond;  
 Jimmy Solis III, son of Representative Jim Solis; and, be it further  
 RESOLVED, That pictures of the mascots appear on the picture panel of  
 the Texas House of Representatives and that an official certificate be prepared  
 for each mascot as a memento of this honor.

**HR 1239** was adopted without objection.

**HR 1240 - ADOPTED**  
**(by Goolsby)**

Representative Goolsby moved to suspend all necessary rules to take up  
 and consider at this time **HR 1240**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HR 1240**

WHEREAS, It has long been the custom of the House of Representatives  
 of the State of Texas to honor the children of its members by electing them  
 to the office of mascot; and

WHEREAS, Since 1983, the house of representatives has also bestowed  
 special recognition on the grandchildren of its members by naming them the  
 honorary mascots of this house; and

WHEREAS, A roster of members' grandchildren has been compiled for this  
 special designation; now, therefore, be it

RESOLVED, That the House of Representatives of the 77th Texas  
 Legislature hereby designate the following grandchildren of house members as  
 honorary mascots:

Scarlett Grace Richards, granddaughter of Representative Ray Allen;  
 Cody Berman, Savannah Berman, and Stewart Mertz, grandchildren of  
 Representative Leo Berman;

Jessica Rae Coombes, granddaughter of Representative Fred M. Bosse;  
 Sophia Elizabeth Brown, granddaughter of Representative Betty Brown;  
 David R. Bull, Derek J. Bull, Dylan R. Bull, Annie M. Callegari,  
 Douglas F. Callegari, Elizabeth J. Callegari, Emory C. Callegari, John P.  
 Callegari, Michael B. Callegari, Thomas J. Callegari, and William A. Callegari III,  
 grandchildren of Representative Bill Callegari;

Zachary Aidan Carr Campbell, grandson of Representative Bill Carter;  
 Daniel Jeffrey Strain, grandson of Representative Dianne White Delisi;  
 Gabriela Marie Gonzalez, granddaughter of Representative Roberto  
 Gutierrez;

Benjamin Kenneth Hedrick, grandson of Representative Fred Hill;  
Austin Hunter Hamon, Hilton Hopson Hamon, Parker Thomas Hamon, and Rachel Elisabeth Marin Lilley, grandchildren of Representative Chuck Hopson;

Alisa Barzellone, granddaughter of Representative Jerry Madden;  
Cole Matthew Perry, grandson of Representative Geanie W. Morrison;  
Judie Angel Cuff and Evan Samuel Reyna, grandchildren of Representative Elvira Reyna;

Abbey Montalvo, granddaughter of Representative Allan Ritter;  
Garrett William Turner, grandson of Representative Bob Turner;  
Christopher Joseph Uher, grandson of Representative Tom Uher;  
Daylan Ryan Cunningham, grandson of Representative Gary L. Walker;  
and, be it further

RESOLVED, That the names of the honorary mascots and their grandparents be placed on the picture panel of the House of Representatives of the 77th Texas Legislature; and, be it further

RESOLVED, That an official certificate be prepared for each honorary mascot as a memento of this honor.

**HR 1240** was adopted without objection.

#### **RESOLUTIONS REFERRED TO COMMITTEES**

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

#### **HR 1253 - ADOPTED (by Dutton)**

Representative Dutton moved to suspend all necessary rules to take up and consider at this time **HR 1253**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HR 1253**, Congratulating Cleo Ashley of Houston on the occasion of her 90th birthday.

**HR 1253** was adopted without objection.

#### **HR 1254 - ADOPTED (by Dutton)**

Representative Dutton moved to suspend all necessary rules to take up and consider at this time **HR 1254**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HR 1254**, Honoring the retirement of Charles Edward Ashley.

**HR 1254** was adopted without objection.

#### **PROVIDING FOR RECESS**

Representative Merritt moved that, at the conclusion of the signing of bills in the presence of the house, the house recess until 1:30 p.m. today.

The motion prevailed without objection.

**BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER**

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List Nos. 65 and 66 and Senate List No. 35).

(Hopson in the chair)

**RECESS**

In accordance with a previous motion, the house, at 12:05, recessed until 1:30 p.m. today.

**AFTERNOON SESSION**

The house met at 1:30 p.m. and was called to order by the speaker.

(Pitts now present)

(Merritt in the chair)

**RESOLUTIONS REFERRED TO COMMITTEES**

Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 2.)

**MESSAGE FROM THE SENATE**

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 2).

**BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER**

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 67).

**HR 1235 - ADOPTED  
(by Wilson)**

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

The motion prevailed without objection.

The following resolution was laid before the house:

**HR 1235**, Honoring all those involved with the search for and rescue of Leah Henry of Houston.

**HR 1235** was read and was adopted without objection.

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

**INTRODUCTION OF GUESTS**

The chair recognized Representative Wilson, who introduced Leah Henry, her father, Tim, and law enforcement officers from the Houston Police Department, Department of Public Safety, Department of Criminal Justice,

Harris County Sheriff's Office, Kerr County Sheriff's Office, and the Houston and San Antonio divisions of the FBI, who were involved in the search for and rescue of Leah Henry.

### **HR 1243 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the chair announced the introduction of **HR 1243**, suspending the limitations on the conferees for **SB 1432**.

### **HB 236 - RECOMMITTED**

Representative Hinojosa moved to recommit **HB 236** to the conference committee on **HB 236**.

The motion prevailed without objection.

(Speaker in the chair)

### **SB 2 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED**

On motion of Representative R. Lewis, the house granted the request of the senate for the appointment of a conference committee on **SB 2**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 2**: R. Lewis, chair, Counts, Cook, T. King, and Puente.

### **SB 450 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Gallego, the house granted the request of the senate for the appointment of a conference committee on **SB 450**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 450**: Gallego, chair, Hochberg, Sadler, Walker, and Chisum.

### **SB 732 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Farabee, the house granted the request of the senate for the appointment of a conference committee on **SB 732**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 732**: Farabee, chair, Ramsay, G. Lewis, Homer, and Hilderbran.

### **HB 1166 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Denny submitted the following conference committee report on **HB 1166**:

Austin, Texas, May 22, 2001

Honorable Bill Ratliff  
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 1166** 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.

Carona	Denny
Van de Putte	Averitt
Lucio	Hopson
Jackson	Menendez
Fraser	Solomons
On the part of the Senate	On the part of the House

**HB 1166**, A bill to be entitled An Act relating to regulation of the business of selling checks, including electronic checks.

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

SECTION 1. Section 152.002, Finance Code, is amended to read as follows:

Sec. 152.002. DEFINITIONS. In this chapter:

(1) "Business of selling checks" means the activity of receiving money by any means from a purchaser for the purpose of subsequently transferring the money in the form of a check payable by the seller to a person designated by the purchaser, for direct or indirect compensation, including earnings from money received from the purchaser or the purchaser's agent and held pending disbursement on a check sold to the purchaser, whether or not the activity is conducted on a regular basis or as an organized business concern.

(2) "Check" means an instrument, service, or device for the transmission or payment of money, including a draft, traveler's check, or money order, or an electronic equivalent to a draft, traveler's check, or money order, including an automated clearinghouse transfer. The term does not include an instrument, service, or device that:

(A) transfers money directly from the purchaser to a creditor of the purchaser or to an agent of the creditor;

(B) is redeemed by the issuer in goods or services under circumstances not designed to evade the obligations and responsibilities imposed by this chapter; or

(C) transfers money in the form of currency to another person in a transmission or transportation transaction subject to Chapter 153[.—The term also includes an instrument for the transmission or payment of money in which the purchaser or remitter of the instrument appoints or purports to appoint the seller as its agent for the receipt, transmission, or handling of money, regardless of who signs the instrument].

(3) [(2)] "Commission" means the Finance Commission of Texas.

(4) [(3)] "Commissioner" means the banking commissioner of Texas.

(5) [(4)] "Deliver" means to deliver a check to the first person who

in payment for the check remits or purports to remit the face amount of the check or makes a remittance or purported remittance against the face amount, regardless of whether the person who delivers the check:

(A) signs the check or is otherwise directly liable for obligations evidenced by the check; or

(B) charges a fee in addition to the face amount.

(6) [~~5~~] "Department" means the Texas Department of Banking.

(7) "Financial institution" has the meaning assigned by Section 201.101.

(8) "License holder" means a person holding a current license issued under Section 152.209. The term includes a person exempt from licensing under Section 152.202 to the extent the obligations and responsibilities of a license holder under this chapter are imposed on the person as a condition of exemption.

(9) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government and includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more nations. The term also includes money represented in digital electronic format, whether or not specially encrypted, and stored or capable of storage on electronic media in a manner that is retrievable and transferable electronically.

(10) [~~6~~] "Permissible investment" means:

(A) cash in demand or interest-bearing accounts with a federally insured financial institution, including certificates of deposit;

(B) a marketable [an] investment security consisting of [that is an obligation]:

(i) bonds and other legally created general obligations of a state, an agency or political subdivision of a state, the United States, or an instrumentality of the United States; or

(ii) obligations that a state or an agency or political subdivision [the principal and interest] of a state, or [which are fully guaranteed by] the United States or an instrumentality of the United States has unconditionally agreed to purchase, insure, or guarantee; or

[ (iii) of a state or a political subdivision of a state; or ]

(C) other assets or securities that may be permitted by rule or [any other investment] approved by the commissioner.

(11) "Principal," in connection with management of a license holder or applicant, means a person who performs executive functions or otherwise controls the executive affairs of a license holder, including an owner, officer, director, partner, trustee, or manager of the license holder.

(12) [~~7~~] "Person" means an individual, partnership, joint stock or other association, trust, or corporation. The term does not include the United States or this state.

[~~8~~] "Sell" includes issue, transmit, or deliver.

[~~9~~] "Traveler's check" means a type of check that:

[(A) is a multiple of a denomination;

[(B) provides for the purchaser's signature to be completed at the time the instrument is purchased; and

~~[(C) provides for the purchaser's countersignature to be completed when the instrument is negotiated.]~~

SECTION 2. Subchapter B, Chapter 152, Finance Code, is amended to read as follows:

SUBCHAPTER B. POWERS AND DUTIES  
OF DEPARTMENT AND COMMISSION

Sec. 152.101. ADMINISTRATION. The department shall administer this chapter.

Sec. 152.102. RULES. ~~[(a)]~~ The commission may adopt rules necessary to enforce and administer this chapter, including rules ~~[relating]~~ to:

- (1) implement and clarify this chapter;
- (2) establish fees for applications, licenses, notices, and examinations to defray the cost of administering this chapter;
- (3) create additional exemptions or reduced requirements applicable to specific circumstances, if the exemption or reduction is in the public interest and subject to appropriate requirements or conditions;
- (4) identify additional permissible investments subject to appropriate investment limits; and
- (5) protect the interests of check purchasers [an application for a license].

~~[(b) The commissioner may adopt and enforce reasonable rules to prevent unsafe and unsound practices with respect to a permissible investment required by this chapter.]~~

Sec. 152.103. EXAMINATIONS ~~[EXCEPTIONS TO REQUIREMENTS].~~ The commissioner by rule may exempt a person from this chapter or reduce a requirement of Section 152.102(b), 152.104, 152.205, 152.206, 152.207, 152.208(a), 152.209, 152.304(b), 152.305, 152.403, 152.503, or 152.504 if:

- ~~[(1) the person does not engage in the business of selling checks to the public and the sale of checks by the person is:~~
- ~~[(A) ancillary to the person's business; and~~
  - ~~[(B) limited to commercial contracts in interstate commerce;~~

and

~~[(2) the commissioner determines that the exemption or reduced requirement is in the public interest.~~

~~[Sec. 152.104. ANNUAL AUDIT].~~ (a) The commissioner shall examine each license holder annually, on a periodic basis as required by any rules adopted under this chapter, or more often as the commissioner considers necessary to efficiently enforce this chapter and other applicable law [shall conduct a financial audit of each license holder at the cost of the license holder].

(b) The commissioner, in the exercise of discretion and as necessary for the efficient enforcement of this chapter or other applicable law, may:

- (1) examine a license holder at its primary place of business;
- (2) examine off-site documents that the license holder furnishes to the department; and
- (3) defer a required examination for not more than six months.

(c) Information in a report of an examination under this section is confidential and may be disclosed only under the circumstances provided by Section 152.105.



(d) Disclosure of information to the commissioner under an examination request does not waive or otherwise affect or diminish a privilege to which the information is otherwise subject [~~Instead of conducting that audit, the commissioner may accept an annual report and audit of the affairs of a license holder under this chapter made by a nationally recognized certified public accounting firm or by a bank commissioner or comparable officer of another state~~].

Sec. 152.104. REGULATORY COOPERATION. (a) To efficiently carry out the purposes of this chapter and reduce the regulatory burden on license holders, the commissioner may:

(1) enter into cooperative, coordinating, or information-sharing agreements with another federal, state, or foreign governmental agency that regulates persons engaged in the business of selling checks or that otherwise has concurrent regulatory or supervisory jurisdiction with respect to license holders under this chapter;

(2) with respect to periodic examination or other supervision or investigation, accept reports of examination or investigation by, and reports submitted to, an agency described by Subdivision (1) instead of conducting examinations or investigations or receiving reports as might otherwise be required or permissible under this chapter;

(3) enter into contracts with an agency described by Subdivision (1) to engage the services of the agency for reasonable compensation to assist in connection with the commissioner's performance of official duties under this chapter or other law, or to provide services to the agency for reasonable compensation in connection with the agency's performance of official duties under law, except that Chapter 2254, Government Code, does not apply to contracts under this subdivision; and

(4) enter into joint examinations or joint enforcement actions with an agency described by Subdivision (1), provided that the commissioner may not waive the ability to independently take action under this chapter if the commissioner determines that the action is necessary to carry out the commissioner's responsibilities under this chapter or to enforce compliance with the laws of this state.

(b) Supervisory or examination fees assessed in accordance with this chapter may be shared with another federal, state, or foreign governmental agency that regulates the activities described in this chapter or that otherwise has concurrent regulatory or supervisory jurisdiction with respect to license holders under this chapter in accordance with an agreement between the commissioner and the agency. The commissioner may also receive a portion of supervisory or examination fees assessed by a federal, state, or foreign governmental agency in accordance with an agreement between the commissioner and the agency.

Sec. 152.105. CONFIDENTIAL INFORMATION; DISCLOSURE. (a) Except as provided by Subsection (b), information obtained by the commissioner [or the commission] under this chapter and any [from a person who holds a license under this chapter or through an examination or a] file or record of the department relating to that information is confidential and may not be disclosed if the information, as determined by the commissioner:

(1) relates to the financial condition of the license holder, a license applicant, a person exempt from licensing under Section 152.202, or an affiliate or principal of a person exempt from licensing under Section 152.202; [~~or~~]

(2) is proprietary information of the license holder; or

(3) is personal or private information relating to a specific purchaser that identifies or can otherwise be associated with the purchaser [~~as determined by the commissioner~~].

(b) The commissioner may release confidential information if:

(1) the commissioner finds that immediate and irreparable harm is threatened to a purchaser or potential purchaser of a check, or to the public;

(2) the license holder consents to the release of information, other than information described by Subsection (a)(3), or has published the information contained in the release;

(3) the commissioner finds that release of the information is required for an administrative hearing, in which case the information may be released to the parties to the hearing by an order of the hearings officer that requires the parties to maintain confidentiality; or

(4) the commissioner finds that release of the information is reasonably necessary to protect the public and is in the interest of justice, in which case the information may be released only to a representative of an agency, department, or instrumentality of this or another state, [~~or~~] the United States, or a foreign government with whom the United States currently maintains diplomatic relations.

(c) Before releasing information the commissioner determines is not proprietary under Subsection (a)(2), the commissioner shall notify the license holder unless the notification is prohibited by other law.

SECTION 3. Subchapter C, Chapter 152, Finance Code, is amended to read as follows:

#### SUBCHAPTER C. APPLICATION FOR AND ISSUANCE OF LICENSE

Sec. 152.201. LICENSE REQUIRED. (a) Except as provided by Section 152.202, a person must hold a license issued under this chapter to [:

[~~(+)~~] engage in the business of selling checks to purchasers:

(1) located in this state [~~as a service or for consideration~~]; or

(2) wherever located if the seller is located in this state.

(b) For purposes of this section, a seller is located in this state if the seller:

(1) employs or otherwise uses an agent that is located in this state;

or

(2) maintains, uses [~~maintain, use~~], or otherwise controls [~~control~~] an account at a financial institution office located in this state for the purpose of engaging in the business of selling checks.

Sec. 152.202. EXEMPTIONS FROM LICENSING. (a) Section 152.201 does not apply to:

(1) a federally insured financial institution [~~as that term is defined by Section 201.101, if the institution does not sell checks, other than traveler's checks, through an agent who is not directly or indirectly owned by the institution unless the agent is also a federally insured financial institution~~];

(2) an agent [~~or subagent~~] of a license holder unless the agent [~~or subagent~~] sells the license holder's checks over the counter to the public and in the regular conduct of that business receives or at any time has access to [:

~~[(A)] a record [check] of the license holder that contains information pertaining to [is returned after] payment of the license holder's obligations under checks sold by the agent for purposes of verification, reconciliation, or accounting; [or~~

~~[(B)] a bank statement relating to a returned check;]~~

(3) a title company or attorney that issues an escrow or trust fund check;

(4) a state, an agency, political subdivision, or instrumentality of a state, the United States, or an agency or instrumentality of the United States, including the United States Postal Service; [or]

(5) with the commissioner's prior written consent, a person that [who]:

(A) holds a license issued under Chapter 153;

(B) ~~[has a net worth of at least \$250,000 and]~~ meets the licensing requirements of this chapter, including a demonstration of net worth as reflected by the financial statements required by Section 152.205;

(C) maintains a bond payable to the commissioner or an amount deposited with the commissioner, for the purposes specified in both this chapter and Chapter 153, in an amount equal to the greater of the amount of bond required by [under] Section 152.206 or Chapter 153; [in the minimum principal amount of \$350,000; and]

(D) sells checks only in conjunction with [a] currency exchange or transmission transactions subject to [transaction, as defined by] Chapter 153, and separately accounts for [separates all] proceeds from transactions under Chapter 153 and this chapter; and

(E) complies with Subsection (b);

(6) with the commissioner's prior written determination that the exemption is in the public interest, a person that:

(A) incidentally engages in the sale of checks only to the extent reasonable and necessary to accomplish a primary business objective that is unrelated to the sale of checks;

(B) does not advertise or offer to sell checks to the public except to the extent reasonable and necessary to fairly advertise or offer its primary business services; and

(C) either:

(i) sells checks exclusively in connection with commercial contracts in interstate commerce; or

(ii) does not charge a fee for the sale of checks or sell checks without fee as an inducement for customer participation in its primary business; or

(7) any other person exempted by rule [that transaction from the sale of checks].

(b) A [Notwithstanding Subsection (a)(5), a] person who meets the requirements of Subsection (a)(5) [that subsection] is subject to:

(1) all provisions [any other provision] of this chapter other than the license requirement of Section 152.201 to the extent the person engages in the business of selling checks; and

(2) rules adopted under this chapter [by the commissioner] to administer and carry out that subsection, including rules to:

(A) define a term used in that subsection; and

(B) establish limits or requirements on the bonding and net worth of the person and the person's activities relating to the sale of checks other than those specified by that subsection.

Sec. 152.203. QUALIFICATIONS FOR LICENSE. (a) Subject to Subsection (b), to [Fø] qualify for a license under this chapter, a person:

(1) must have a net worth of at least \$500,000, computed according to generally accepted accounting principles, as reflected by the financial statements required by Section 152.205;

(2) must be in a financial condition that will enable the person to safely and soundly engage in the business of selling checks;

(3) [if an individual, may not have been convicted of a felony or a crime involving moral turpitude that is reasonably related to the person's fitness to hold the license, regardless of whether the punishment received was a suspended sentence, community supervision, or nonadjudicated conviction;

[4] must respond truthfully and completely to any request for information contained in the license application;

[5] may not be indebted to any local, [this] state, or federal government or political subdivision of the government for delinquent taxes, fines, penalties, or fees [a fee or penalty imposed under this chapter or a rule of the commission;

[6] if an individual, must have a good moral character and reputation as a peaceful, law-abiding resident in the community in which the person resides]; and

(4) [7] may not be engaged in an activity or practice the commissioner finds adversely affects the person's financial safety and soundness.

(b) A [Fø qualify for a] license may not be issued to an applicant unless each person identified under Section 152.204(b)(1):

(1) possesses [;] the financial responsibility, financial condition, business experience, character, and general fitness that would [of the applicant must] reasonably warrant the belief that issuance of the license will be in the public interest; and

(2) has not been convicted during the preceding 10 years of an offense:

(A) under a state or federal law that involves deception, dishonesty, or defalcation, or that relates to currency exchange, transportation, or transmission, money laundering, or a reporting requirement of the Bank Secrecy Act (12 U.S.C. Section 1951 et seq.); or

(B) under the laws of a foreign country that involves deception, dishonesty, or defalcation, or that would be a felony under state or federal law if committed in the United States, unless the applicant demonstrates to the satisfaction of the commissioner that the conviction was based on extenuating circumstances unrelated to the person's reputation for honesty and obedience to law.

Sec. 152.204. APPLICATION. (a) An application for a license must be in writing, sworn to, and filed with the commissioner in the form the commissioner prescribes.

(b) The application must;

(1) state the full legal name, federal taxpayer identification number or social security number, and business address of the applicant, and [~~the proprietor~~], if the applicant is:

(A) an individual, the home address of the applicant, and the full legal name and federal taxpayer identification number or social security number of the applicant's spouse; or

(B) a person other than an individual, the full legal name, federal taxpayer identification number or social security number, and the business address of:

(i) each individual who is a principal of the applicant; and

(ii) each individual who is a principal of any person that is a principal of the applicant;

(2) describe in detail the applicant's business plan relating to the business of selling checks, including:

(A) method of operations;

(B) location of operations and outlets;

(C) projections regarding the anticipated growth in volume of checks sold in dollars and in number of consumers during the initial two-year period of operation; and

(D) other information sufficient to permit the commissioner to evaluate the bonding requirements of Section 152.206 [each member, if the applicant is a partnership or association other than an association described by Subdivision (3)];

(3) include an undertaking to increase or supplement the bond furnished with the application to equal the aggregate bond required by the commissioner before the issuance of the license and the start of operations [the association and each officer and director of the association, if the applicant is a joint stock association having at least 50 members]; and

(4) disclose any other information that may be required by rule or reasonably requested by the commissioner [each trustee and officer, if the applicant is a trust; and

[(5) the corporation and each officer and director of the corporation, if the applicant is a corporation].

Sec. 152.205. ACCOMPANYING FEE, STATEMENTS, AND BOND. An application for a license must be accompanied by:

(1) a nonrefundable application [investigation] fee in an amount established by rule [set by the commissioner] that is sufficient to administer this chapter;

(2) audited financial statements of the applicant that are reasonably satisfactory to the commissioner; and

(3) [~~a list of the locations at which the business is to be conducted;~~  
and

[(4)] a surety bond or deposit in the amount of \$100,000, subject to the additional bonding or deposit [that meets the] requirements of Section 152.206 or 152.207.

Sec. 152.206. SURETY BOND. (a) Except as provided by Section 152.207, a license holder shall post a surety bond issued by a bonding company

or insurance company authorized to do business in this state that is acceptable to the commissioner.

(b) The commissioner shall, on application and otherwise from time to time, determine the amount of the surety bond but may not determine the amount to be less than \$100,000 or greater than \$1 million. In making a determination under this subsection, the commissioner shall consider:

(1) the nature and type of business the license holder conducts;

(2) the license holder's financial condition in relation to the dollar volume of the license holder's obligations from time to time with respect to outstanding checks sold;

(3) the nature and degree of liquidity in assets legally and beneficially owned by the license holder;

(4) the competence, character, general fitness, and experience of management;

(5) the extent and adequacy of internal controls maintained by the license holder;

(6) the presence or absence of annual unqualified audits by an independent certified public accountant; and

(7) the existence and adequacy of other insurance obtained or held by the license holder to protect its customers. [The surety bond must be:

(1) in an amount, except as provided by Subsection (c), computed by adding:

[(A) \$100,000 for the first location at which the applicant proposes to sell checks; and

[(B) \$50,000 for each additional location at which the applicant proposes to sell checks, not to exceed \$400,000;

(2) in a form satisfactory to the commissioner; and

[(3) issued by a bonding company or insurance company authorized to do business in this state.]

(c) [(b)] The bond represents money held in trust for the benefit of check purchasers. The bond must be payable to the commissioner [this state] on behalf of any claimants against the license holder or the license holder's agent to secure the faithful performance of the obligations of the license holder or agent with respect to the receipt, handling, transmission, and payment of money in connection with the sale of checks.

[(e) The commissioner may require a license holder to provide the bond in an amount that exceeds the maximum but not more than \$1 million, taking into consideration the license holder's financial condition in relation to the dollar volume of the license holder's outstanding checks.]

(d) The aggregate liability of the bond's surety under this chapter may not exceed the principal amount of the bond.

Sec. 152.207. ALTERNATIVE TO BOND. (a) Instead of furnishing all or part of the amount of the surety bond required by Section 152.206 [152.205(4)], an applicant or license holder may deposit with the commissioner, or with a financial institution possessing trust powers that is authorized to conduct a trust business [bank, trust company, or national bank] in this state [designated by the applicant] and is acceptable to [approved by] the commissioner, an aggregate amount, including cash, certificates of deposit, and interest-bearing securities, that equals the total amount of the required bond or

the remaining part of the bond. For purposes of this subsection, the value of the securities is the lesser of the principal amount or the market value of the securities.

(b) The deposit shall be held in trust for the benefit of check purchasers. The deposit secures the same obligations as the surety bond. The license holder is entitled:

(1) to receive all income generated by the assets in [interest and dividends on] the deposit; and

(2) with the commissioner's approval, to substitute other permissible assets or securities for those deposited.

(c) On written order of the commissioner made for good cause shown, the license holder shall substitute other assets or securities for those deposited.

(d) In this section, "securities" means marketable investment securities consisting of:

(1) [~~stocks;~~] bonds and [; notes, debentures, or] other legally created general obligations of a state or an agency or political subdivision of a state, or [;

~~[(A) of] the United States or an instrumentality of the United States;~~

~~[(B) of this state;~~

~~[(C) of a municipality, county, school district, or instrumentality of this state; or~~

~~[(D) guaranteed by the United States or this state; or]~~

(2) obligations that a state or an agency or political subdivision of a state, or the United States or an instrumentality of the United States has unconditionally agreed to purchase, insure, or guarantee; or

(3) other securities specified by rule [similar security devices acceptable to the commissioner].

Sec. 152.208. INVESTIGATION OF APPLICATION. (a) On the filing of an application that meets the requirements of Sections 152.204 and 152.205, the commissioner shall investigate to determine whether the qualifications prescribed by Section 152.203 have been met.

(b) To the extent considered advisable by the commissioner, the commissioner may investigate and consider the qualifications of principals [officers and directors] of an applicant in determining whether the qualifications [qualification] prescribed by Section 152.203(b) have [has] been met.

Sec. 152.209. ISSUANCE OF LICENSE. (a) The commissioner shall issue a license to the applicant if the commissioner[;]

~~[(1)] finds that the qualifications prescribed by Section 152.203 are met, based on the application and investigation, [;~~

~~[(2) approves the documents;] and receives an acceptable~~

~~[(3) finds that the] bond or bonds and deposits aggregating to [is in] the [prescribed] amount required by the commissioner.~~

(b) The applicant on request is entitled to a hearing on the denial of the application, to be held not later than the 60th day after the date the commissioner receives the request.

~~[Sec. 152.210. DENIAL OF LICENSE; HEARING. (a) A hearing must be held before a license may be denied.~~

~~[(b) The commissioner shall give the applicant notice of the hearing.]~~

SECTION 4. Sections 152.301(b) and (c), Finance Code, are amended to read as follows:

(b) A surety bond or letter of credit required under Subsection (a)(3) must be:

(1) in addition to any other bond or security required by this chapter;  
 (2) issued by a bonding company or insurance company authorized to do business in this state and acceptable to the commissioner, in the case of a surety bond;

(3) issued by a federally insured financial institution~~[-as that term is defined by Section 201.101-]~~ that has its main office or a branch in this state and is acceptable to the commissioner, in the case of a letter of credit; and

(4) payable to the commissioner on behalf of any claimants against the license holder to secure the faithful performance of the obligations of the license holder with respect to the receipt, handling, and payment of money in connection with the sale of checks.

(c) The net worth of the license holder for purposes of Subsection (a) ~~[(a)(3)]~~ is shown by an audited financial statement reasonably satisfactory to the commissioner.

SECTION 5. Section 152.304(a), Finance Code, is amended to read as follows:

(a) Not later than June 30 ~~[April 15]~~ of each year, a license holder shall pay to the commissioner a license renewal fee in an amount established by rule ~~[of \$500]~~.

SECTION 6. Section 152.305, Finance Code, is amended to read as follows:

Sec. 152.305. FINANCIAL STATEMENTS AND REPORTS. (a) Unless waived by the commissioner, not later than the 45th day after the last day of each quarter of the license holder's fiscal year, a license holder shall file with the commissioner a certification of net worth and a report regarding maintaining permissible investments under Section ~~[Sections]~~ 152.301 ~~[and 152.3015]~~ for the preceding quarter submitted on forms furnished by the commissioner.

(b) Not later than June 30 ~~[April 15]~~ of each year, or a later date the commissioner approves in writing for good cause shown, a license holder shall file an annual audited unconsolidated financial statement dated as of the last day of the license holder's fiscal year that ended in the immediately preceding calendar year.

SECTION 7. Section 152.307(a), Finance Code, is amended to read as follows:

(a) The commissioner shall give a license holder an opportunity for a ~~[A]~~ hearing ~~[must be held]~~ before a license may be revoked.

SECTION 8. Section 152.401, Finance Code, is amended to read as follows:

Sec. 152.401. BUSINESS CONDUCTED BY AGENT ~~[OR SUBAGENT]~~.  
 (a) A license holder may conduct the ~~[license holder's]~~ business of selling checks under this chapter from any location within or outside of ~~[at one or more locations in]~~ this state, either directly or through an agent ~~[or subagent]~~ appointed by the license holder.



(b) A rule adopted under Section 152.102 [~~152.102(a)~~] may not directly apply to a license holder's agent [~~or subagent~~].

(c) Subject to compliance with this chapter, a license holder or the license holder's agent may sell checks through physical facilities, electronic facilities, including the Internet, or telephonic facilities and may charge a different price for checks based on the type of facility used in the transaction. A price differential based on the type of facility used does not constitute a surcharge subject to Section 339.001 if:

(1) the price charged for checks paid for by credit card is not greater than the price charged for checks paid for by another form of payment accepted within the same type of facility; and

(2) the license holder or agent does not refuse to sell checks to a customer who intends to pay by credit card through one type of facility, at which credit cards are ordinarily accepted, by redirecting the customer to use a credit card at another type of facility.

SECTION 9. Section 152.402, Finance Code, is amended to read as follows:

Sec. 152.402. DISCLOSURE OF RESPONSIBILITY. Each check sold by a license holder, directly or through an agent, must:

(1) include the name and mailing address or telephone number of the license holder clearly printed or displayed on or in connection with sale of the check; or

(2) be accompanied by a written notice displayed or delivered to the purchaser at the time of sale containing that information.

SECTION 10. Section 152.404(b), Finance Code, is amended to read as follows:

(b) Notwithstanding Subsection (a), a license holder's agent may remit to the license holder all money due from the sale of a check at a later date if the agent maintains on deposit with an office of a federally insured financial institution [~~bank, savings and loan association, or savings bank~~] located in the United States an amount that:

(1) is in an account solely in the name of the license holder; and

(2) for each day by which the period before which the remittance is made exceeds 10 business days, is not less than the outstanding obligations of the license holder represented by [~~aggregate face amount of~~] checks issued by the license holder that the agent usually sells daily.

SECTION 11. Section 152.405, Finance Code, is amended to read as follows:

Sec. 152.405. LIABILITY FOR PAYMENT OF CHECK. (a) Except as provided by Subsection (b), a [A] license holder that sells a check, directly or through an agent, is liable for the payment of the check in the same manner as a [~~the~~] maker or drawer of a negotiable instrument subject to Chapter 3, Business & Commerce Code, regardless of whether the license holder signed or assumed primary liability for obligations evidenced by the check [~~as the maker or drawer~~].

(b) With respect to a check that is designated as a money order and that contains on the front or the back of the check a written disclosure that the purchaser has the right to stop payment, the license holder is considered to be a drawee and the purchaser of the check is considered to be a drawer of a

negotiable instrument subject to Chapter 3, Business & Commerce Code, for purposes of a stop-payment order and liability to the holder of the check.

SECTION 12. This Act takes effect September 1, 2001.

Representative Denny moved to adopt the conference committee report on **HB 1166**.

The motion prevailed without objection.

**HR 1188 - ADOPTED**  
**(by Junell)**

The following privileged resolution was laid before the house:

**HR 1188**

BE IT RESOLVED by the House of Representatives of the State of Texas, 77th Legislature, Regular Session, 2001, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **HJR 97**, proposing a constitutional amendment authorizing the issuance of general obligation bonds for construction and repair projects and for the purchase of needed equipment, to consider and take action on the following matter:

House Rule 13, Section 9(a)(3), is suspended to permit the committee to add new text to Subsection (b), Section 50-f, Article III, Texas Constitution, as added by the joint resolution, so that Subsection (b) reads as follows:

(b) Proceeds from the sale of the bonds shall be deposited in a separate fund or account within the state treasury created by the comptroller for that purpose. Money in the separate fund or account may be used only to pay for:

(1) construction and repair projects authorized by the legislature by general law or the General Appropriations Act and administered by or on behalf of the General Services Commission, the Texas Youth Commission, the Texas Department of Criminal Justice, the Texas Department of Mental Health and Mental Retardation, the Parks and Wildlife Department, the adjutant general's department, the Texas School for the Deaf, the Department of Agriculture, the Department of Public Safety of the State of Texas, the State Preservation Board, the Texas Department of Health, the Texas Historical Commission, or the Texas School for the Blind and Visually Impaired; or

(2) the purchase, as authorized by the legislature by general law or the General Appropriations Act, of needed equipment by or on behalf of a state agency listed in Subdivision (1) of this subsection.

Explanation: The added text is necessary to allow the Texas Department of Health and the Texas Historical Commission to be eligible to use the proceeds of bonds authorized by the constitutional amendment for construction and repair projects and for the purchase of needed equipment.

**HR 1188** was adopted without objection.

**HJR 97 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Heflin submitted the following conference committee report on **HJR 97**:

Austin, Texas, May 22, 2001

Honorable Bill Ratliff  
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 **HJR 97** 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	Junell
Harris	West
Zaffirini	Coleman
Duncan	Gallego
Fraser	Heflin
On the part of the Senate	On the part of the House

**HJR 97**, A Joint Resolution proposing a constitutional amendment authorizing the issuance of general obligation bonds for construction and repair projects and for the purchase of needed equipment.

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

SECTION 1. Article III, Texas Constitution, is amended by adding Section 50-f to read as follows:

Sec. 50-f. (a) The legislature by general law may authorize the Texas Public Finance Authority to provide for, issue, and sell general obligation bonds of the State of Texas in an amount not to exceed \$850 million and to enter into related credit agreements. The bonds shall be executed in the form, on the terms, and in the denominations, bear interest, and be issued in installments as prescribed by the Texas Public Finance Authority.

(b) Proceeds from the sale of the bonds shall be deposited in a separate fund or account within the state treasury created by the comptroller for this purpose. Money in the separate fund or account may be used only to pay for:

(1) construction and repair projects authorized by the legislature by general law or the General Appropriations Act and administered by or on behalf of the General Services Commission, the Texas Youth Commission, the Texas Department of Criminal Justice, the Texas Department of Mental Health and Mental Retardation, the Parks and Wildlife Department, the adjutant general's department, the Texas School for the Deaf, the Department of Agriculture, the Department of Public Safety of the State of Texas, the State Preservation Board, the Texas Department of Health, the Texas Historical Commission, or the Texas School for the Blind and Visually Impaired; or

(2) the purchase, as authorized by the legislature by general law or the General Appropriations Act, of needed equipment by or on behalf of a state agency listed in Subdivision (1) of this subsection.

(c) The maximum net effective interest rate to be borne by bonds issued under this section may be set by general law.

(d) While any of the bonds or interest on the bonds authorized by this section is outstanding and unpaid, from the first money coming into the state treasury in each fiscal year not otherwise appropriated by this constitution, an amount sufficient to pay the principal and interest on bonds that mature or

become due during the fiscal year and to make payments that become due under a related credit agreement during the fiscal year is appropriated, less the amount in the sinking fund at the close of the previous fiscal year.

(e) Bonds issued under this section, after approval by the attorney general, registration by the comptroller of public accounts, and delivery to the purchasers, are incontestable and are general obligations of the State of Texas under this constitution.

SECTION 2. This proposed constitutional amendment shall be submitted to the voters at an election to be held November 6, 2001. The ballot shall be printed to permit voting for or against the proposition: "The constitutional amendment authorizing the issuance of up to \$850 million in bonds payable from the general revenues of the state for construction and repair projects and for the purchase of needed equipment."

Representative Heflin moved to adopt the conference committee report on **HJR 97**.

A record vote was requested.

The motion prevailed by (Record 534): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Moreno, P.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert; Jones, E.; Rangel; West.

Absent, Excused, Committee Meeting — Hochberg; Marchant; Sadler; Tillery.

## **SB 65 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative B. Turner submitted the conference committee report on **SB 65**.

Representative B. Turner moved to adopt the conference committee report on **SB 65**.

The motion prevailed without objection.

(Tillery and Marchant now present)

**SB 303 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Gallego submitted the conference committee report on **SB 303**.

Representative Gallego moved to adopt the conference committee report on **SB 303**.

Representative Hartnett offered a substitute motion to recommit **SB 303** to the conference committee.

Representative Gallego moved to table the substitute motion.

The motion to table prevailed.

The motion to adopt the conference committee report on **SB 303** prevailed. (Nixon recorded voting no)

**SB 304 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Bosse submitted the conference committee report on **SB 304**.

Representative Bosse moved to adopt the conference committee report on **SB 304**.

The motion prevailed without objection.

**SB 577 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Driver submitted the conference committee report on **SB 577**.

Representative Driver moved to adopt the conference committee report on **SB 577**.

A record vote was requested.

The motion prevailed by (Record 535): 121 Yeas, 13 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Ellis; Farabee; Farrar; Flores; Garcia; George; Geren; Giddings; Glaze; Goodman; Gray; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hawley; Hilderbran; Hinojosa; Homer; Hope; Hopson; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Junell; Keel; Keffer; Kitchen; Kolkhorst; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; Menendez; Merritt; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Olivo; Pickett; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Nays — Bonnen; Callegari; Corte; Craddick; Elkins; Gallego; Heflin; Hodge; King, T.; Krusee; McReynolds; Miller; Shields.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert; Jones, E.; Rangel; West.

Absent, Excused, Committee Meeting — Hochberg; Sadler.

Absent — Crabb; Goolsby; Green; Hartnett; Hill; Howard; King, P.; Moreno, P.; Oliveira.

### STATEMENTS OF VOTE

I was shown voting no on Record No. 535. I intended to vote yes.

Corte

I was shown voting no on Record No. 535. I intended to vote yes.

Krusee

### SB 583 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Janek submitted the conference committee report on **SB 583**.

Representative Janek moved to adopt the conference committee report on **SB 583**.

The motion prevailed. (G. Lewis recorded voting no)

### SB 684 - ADOPTION OF CONFERENCE COMMITTEE REPORT

Representative Uresti submitted the conference committee report on **SB 684**.

Representative Uresti moved to adopt the conference committee report on **SB 684**.

A record vote was requested.

The motion prevailed by (Record 536): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Junell; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt;

Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert; Jones, E.; Rangel; West.

Absent, Excused, Committee Meeting — Hochberg; Sadler.

Absent — Miller; Moreno, P.

#### **SB 846 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Naishtat submitted the conference committee report on **SB 846**.

Representative Naishtat moved to adopt the conference committee report on **SB 846**.

The motion prevailed.

#### **SB 1074 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Thompson submitted the conference committee report on **SB 1074**.

Representative Thompson moved to adopt the conference committee report on **SB 1074**.

The motion prevailed.

#### **SB 1472 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Keffer submitted the conference committee report on **SB 1472**.

#### **LEAVE OF ABSENCE GRANTED**

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

Junell on motion of Keel.

#### **SB 1472 - (consideration continued)**

Representative Keffer moved to adopt the conference committee report on **SB 1472**.

A record vote was requested.

The motion prevailed by (Record 537): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hodge; Homer; Hope; Hopson; Howard;

Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; West.

Absent, Excused, Committee Meeting — Hochberg; Sadler.

Absent — Moreno, P.

**HR 1211 - ADOPTED**  
**(by Rangel)**

The following privileged resolution was laid before the house:

**HR 1211**

BE IT RESOLVED by the House of Representatives of the State of Texas, 77th Legislature, Regular Session, 2001, That House Rule 13, Section 9(a), be suspended in part as provided by House Rule 13, Section 9(f), to enable the conference committee appointed to resolve the differences on **SB 1596**, relating to the establishment and operation of the Toward EXcellence, Access, & Success (TEXAS) grant II program, to consider and take action on the following matter:

House Rule 13, Section 9(a)(1), is suspended to permit the committee to amend proposed Section 56.357(g), Education Code, to read as follows:

(g) An institution may use other available sources of financial aid, other than a loan or a Pell grant, to cover any difference in the amount of a TEXAS grant II and the actual amount of tuition and required fees at the institution.

Explanation: Subsection (g) is amended to conform to Section 56.307(j), Education Code, which provides that a loan or Pell grant may not be used to cover any difference in the amount of a TEXAS grant and the actual amount of tuition and required fees at an institution. The change is necessary to provide consistency between the TEXAS grant II program and the TEXAS grant program.

**HR 1211** was adopted without objection.

**SB 1596 - ADOPTION OF CONFERENCE COMMITTEE REPORT**

Representative Uher submitted the conference committee report on **SB 1596**.

Representative Uher moved to adopt the conference committee report on **SB 1596**.

A record vote was requested.



The motion prevailed by (Record 538): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hodge; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; West.

Absent, Excused, Committee Meeting — Hochberg; Sadler.

Absent — Capelo; Haggerty; Moreno, P.

### **HR 1267 - NOTICE OF INTRODUCTION**

Pursuant to the provisions of Rule 13, Section 9(f), of the House Rules, the speaker announced the introduction of **HR 1267**, suspending the limitations on the conferees for **SB 536**.

### **SB 1156 - REQUEST OF SENATE GRANTED CONFERENCE COMMITTEE APPOINTED**

On motion of Representative Coleman, the house granted the request of the senate for the appointment of a conference committee on **SB 1156**.

The chair announced the appointment of the following conference committee, on the part of the house, on **SB 1156**: Coleman, chair, Gray, Janek, Eiland, and Keffer.

### **HB 66 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 66**, A bill to be entitled An Act relating to the regulation of certain water well drillers.

On motion of Representative Pitts, the house concurred in the senate amendments to **HB 66**.

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

Amend **HB 66** as follows:

On page 1, section 2, beginning on line 9, strike existing subsection (e) and replace with the following new subsection (e):

(e) ~~▲ [Except as provided by Section 32.003, a]~~ license issued under this chapter expires annually ~~[August 31 of each year].~~ On or before the license renewal day, each licensee shall pay an annual fee to the department to renew the license. ~~[The department shall notify each licensee in writing of the impending license expiration not later than August 1 of each year.]~~ If a person's license has been expired for 90 days or less, the person may renew the license by paying to the department the required renewal fee and a late fee that is equal to one-half of the examination fee for the license. If a person's license has been expired for more than 90 days but less than two years, the person may renew the license by paying to the department all unpaid renewal fees and a late fee that is equal to the examination fee for the license. If a person's license has been expired for two years or more, the person may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license.

**HB 71 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 71**, A bill to be entitled An Act relating to the regulation of certain water well pump installers.

On motion of Representative Pitts, the house concurred in the senate amendments to **HB 71**.

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

Amend **HB 71** as follows:

On page 1, section 2, beginning on line 9, strike existing subsection (d) and replace with the following new subsection (d):

(d) ~~▲ [Except as provided by Section 33.003, a]~~ license issued under this chapter expires annually ~~[on August 31 of each year].~~ On or before the license renewal day, each licensee shall pay an annual fee to the department to renew the license. ~~[The department shall notify each licensee in writing of the impending license expiration not later than August 1 of each year.]~~ If a person's license has been expired for 90 days or less, the person may renew the license by paying to the department the required renewal fee and a late fee that is equal to one-half of the examination fee for the license. If a person's license has been expired for more than 90 days but less than two years, the person may renew the license by paying to the department all unpaid renewal fees and a late fee that is equal to the examination fee for the license. If a person's license has been expired two years or more, the person may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the requirements for obtaining an original license.

**HB 116 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 116**, A bill to be entitled An Act relating to registration with the Selective Service System of certain applicants for a driver's license.

On motion of Representative Najera, the house concurred in the senate amendments to **HB 116**.

**Senate Committee Substitute**

**CSHB 116**, A bill to be entitled An Act relating to registration with the Selective Service System of certain applicants for a driver's license.

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

SECTION 1. Section 521.044(a), Transportation Code, is amended to read as follows:

(a) Information provided on a driver's license application that relates to the applicant's social security number may be used only by the department or disclosed only to:

(1) the child support enforcement division of the attorney general's office; [or]

(2) another state entity responsible for enforcing the payment of child support; or

(3) the United States Selective Service System as provided by Section 521.147.

SECTION 2. Subchapter G, Chapter 521, Transportation Code, is amended by adding Section 521.147 to read as follows:

Sec. 521.147. OPTIONAL REGISTRATION WITH SELECTIVE SERVICE SYSTEM. (a) The department shall develop by rule a selective service consent statement as a part of the application for an original, renewal, or duplicate driver's license or personal identification certificate. The consent statement must include a place to indicate consent or declination to register with the United States Selective Service System and must state the benefits and penalties associated with consent or declination to register. The department shall present the statement to each applicant who is subject to registration with the Selective Service System and record the applicant's response. A response is required to complete the application for a license or certificate for such an applicant. The department shall forward to the Selective Service System, in an electronic format, only the information necessary for registration of an applicant consenting to registration.

(b) In addition to the statement required by Subsection (a), the department may conspicuously post at each location where applications for driver's licenses are accepted one or more signs, in English and Spanish, providing the information contained in the statement.

SECTION 3. This Act takes effect September 1, 2001, and applies only to an application submitted on or after that date.

**HB 152 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

Representative F. Brown called up with senate amendments for consideration at this time,

**HB 152**, A bill to be entitled An Act relating to a pilot program to provide for reduced undergraduate tuition during a summer term or session at certain institutions of higher education.

Representative F. Brown moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 152**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 152**: F. Brown, chair, Rangel, West, Morrison, and Uher.

**HB 171 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative G. Lewis called up with senate amendments for consideration at this time,

**HB 171**, A bill to be entitled An Act relating to the prosecution of and the punishment for certain offenses involving damage or destruction of property.

On motion of Representative G. Lewis, the house concurred in the senate amendments to **HB 171**.

**Senate Committee Substitute**

**CSHB 171**, A bill to be entitled An Act relating to the prosecution of certain offenses involving damage or destruction of property.

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

SECTION 1. Sections 28.02(a) and (d), Penal Code, are amended to read as follows:

(a) A person commits an offense if the person [he] starts a fire, regardless of whether the fire continues after ignition, or causes an explosion with intent to destroy or damage:

- (1) any vegetation, fence, or structure on open-space land; or
- (2) any building, habitation, or vehicle:

(A) knowing that it is within the limits of an incorporated city or town;

(B) knowing that it is insured against damage or destruction;

(C) knowing that it is subject to a mortgage or other security interest;

(D) knowing that it is located on property belonging to another;

(E) knowing that it has located within it property belonging to another; or

(F) when the person [~~he~~] is reckless about whether the burning or explosion will endanger the life of some individual or the safety of the property of another.

(d) An offense under this section is a felony of the second degree, except that the offense is a felony of the first degree if it is shown on the trial of the offense that:

(1) bodily injury or death was suffered by any person by reason of the commission of the offense; or

(2) [~~the actor committed the offense knowing that~~] the property intended to be damaged or destroyed by the actor was a habitation or a place of assembly or worship.

SECTION 2. Section 28.03, Penal Code, is amended by amending Subsections (b) and (g) and adding Subsection (h) to read as follows:

(b) Except as provided by Subsections [~~Subsection~~] (f) and (h), an offense under this section is:

(1) a Class C misdemeanor if:

(A) the amount of pecuniary loss is less than \$50; or

(B) except as provided in Subdivision (3)(B), it causes substantial inconvenience to others;

(2) a Class B misdemeanor if the amount of pecuniary loss is \$50 or more but less than \$500;

(3) a Class A misdemeanor if the amount of pecuniary loss is:

(A) \$500 or more but less than \$1,500; or

(B) less than \$1,500 and the actor causes in whole or in part impairment or interruption of public communications, public transportation, public water, gas, or power supply, or other public service, or causes to be diverted in whole, in part, or in any manner, including installation or removal of any device for any such purpose, any public communications, public water, gas, or power supply;

(4) a state jail felony if the amount of pecuniary loss is:

(A) \$1,500 or more but less than \$20,000;

(B) less than \$1,500, if the property damaged or destroyed is a habitation and if the damage or destruction is caused by a firearm or explosive weapon; or

(C) less than \$1,500, if the property was a fence used for the production or containment of:

(i) cattle, bison, horses, sheep, swine, goats, exotic livestock, or exotic poultry; or

(ii) game animals as that term is defined by Section 63.001, Parks and Wildlife Code;

(5) a felony of the third degree if the amount of the pecuniary loss is \$20,000 or more but less than \$100,000;

(6) a felony of the second degree if the amount of pecuniary loss is \$100,000 or more but less than \$200,000; or

(7) a felony of the first degree if the amount of pecuniary loss is \$200,000 or more.

(g) In [~~For the purposes of~~] this section;

(1) "Explosive weapon" means any explosive or incendiary device that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror, and includes:

(A) an explosive or incendiary bomb, grenade, rocket, and mine;

(B) a device designed, made, or adapted for delivering or shooting an explosive weapon; and

(C) a device designed, made, or adapted to start a fire in a time-delayed manner.

(2) "Firearm" has [~~;~~ "firearm" and "explosive weapon" have] the meaning [~~meanings~~] assigned [~~those terms~~] by Section 46.01.

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

(h) An offense under this section is a state jail felony if the amount of the pecuniary loss to real property or to tangible personal property is \$1,500 or more but less than \$20,000 and the damage or destruction is inflicted on a public or private elementary school, secondary school, or institution of higher education.

SECTION 3. The change in law made by this Act applies only to an offense committed on or after the effective date of this Act. 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. This Act takes effect September 1, 2001.

(Hochberg now present)

## **HB 176 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 176**, A bill to be entitled An Act relating to the use of certain communication equipment in certain civil and criminal pretrial and trial proceedings.

On motion of Representative Luna, the house concurred in the senate amendments to **HB 176** by (Record 539): 137 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Hagerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin;

Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wohlgenuth; Wolens; Woolley; Yarbrough; Zbraneck.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; West.

Absent, Excused, Committee Meeting — Sadler.

Absent — Cook; Garcia; Longoria; McClendon; Moreno, P.; Smithee.

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

AMEND **HB 176** by striking subsection (a) (House Engrossed version page 1, lines 8-14) and substitute (a) With the agreement of the parties, and subject to Subsection (b), a trial judge may order that a hearing of a preliminary matter or witness testimony at trial may be conducted by electronic means, including satellite transmission, closed-circuit television transmission, or any other method of two-way electronic communication that is available to the parties, approved by the court, and capable of visually and audibly recording the proceedings.

### **HB 196 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative A. Reyna called up with senate amendments for consideration at this time,

**HB 196**, A bill to be entitled An Act relating to the adoption of standards for the practice of air conditioning and refrigeration contracting.

On motion of Representative A. Reyna, the house concurred in the senate amendments to **HB 196**.

### **Senate Committee Substitute**

**CSHB 196**, A bill to be entitled An Act relating to the adoption of standards for the practice of air conditioning and refrigeration contracting.

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

SECTION 1. Section 2(10), Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes), is amended to read as follows:

(10) "Mechanical integrity" means physical installation of products, systems, or equipment in accordance with their intended purpose and according to:

(A) standards at least as strict as the standards set forth in

the Uniform Mechanical Code and the International Mechanical Code [~~published jointly by the International Conference of Building Officials and the International Association of Plumbing and Mechanical Officials, or their successor organizations, or the Standard Mechanical Code published by the Southern Building Code Congress International, Inc., or its successor organization~~];

(B) all other applicable codes; and

(C) the manufacturer's specifications.

SECTION 2. Section 3(a), Air Conditioning and Refrigeration Contractor License Law (Article 8861, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The commissioner shall adopt rules for the practice of air conditioning and refrigeration contracting consistent with this Act. The standards prescribed by rule must be at least as strict as the standards set forth in the Uniform Mechanical Code published [~~jointly~~] by [~~the International Conference of Building Officials and~~] the International Association of Plumbing and Mechanical Officials and the International Mechanical Code published by the International Code Council [~~or the Standard Mechanical Code published by the Southern Building Code Congress International, Inc., as those codes exist at the time the rules are adopted~~]. The commissioner shall enforce this Act and may adopt rules relating to enforcement requirements.

SECTION 3. This Act takes effect September 1, 2001.

### **HB 217 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative A. Reyna called up with senate amendments for consideration at this time,

**HB 217**, A bill to be entitled An Act relating to the regulation of plumbing.

On motion of Representative A. Reyna, the house concurred in the senate amendments to **HB 217**.

#### **Senate Committee Substitute**

**CSHB 217**, A bill to be entitled An Act relating to the regulation of plumbing.

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

SECTION 1. Section 2(5), The Plumbing License Law (Article 6243-101, Vernon's Texas Civil Statutes), is amended to read as follows:

(5) "Plumbing Inspector" means any person employed by a political subdivision, or who contracts as an independent contractor with a political subdivision, for the purpose of inspecting plumbing work and installations in connection with health and safety laws and ordinances, who has no financial or advisory interests in any plumbing company, and who has successfully fulfilled the examinations and requirements of the Board.

SECTION 2. Section 3(a), The Plumbing License Law (Article 6243-101, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) The following acts, work and conduct shall be expressly permitted without license:



(1) Plumbing work done by a property owner in a building owned or occupied by him as his homestead;

(2) Plumbing work done on a property that is:

(A) located in a subdivision or on a tract of land that is not required to be platted under Section 232.0015, Local Government Code; or

(B) not connected to a public water system; and

(C) located 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) 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) Plumbing work done by an irrigator licensed under Chapter 34, Water Code, or an installer licensed under Chapter 33, Water Code. 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) 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, including a post-construction report signed by a plumbing inspector that the plumbing facilities are safe.

SECTION 3. Section 5B, The Plumbing License Law (Article 6243-101, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 5B. **ADOPTION OF PLUMBING CODES.** (a) To protect the health and safety of the citizens of this state, the Board shall adopt the following plumbing codes, as those codes existed on May 31, 2001:

(1) [~~Southern Standard Plumbing Code,~~] the Uniform Plumbing Code, as published by the International Association of Plumbing and Mechanical Officials; [;] and

(2) the International Plumbing Code published by the International Code Council [~~the National Standard Plumbing Code~~].

(b) The Board may by rule adopt later editions of the plumbing codes listed under Subsection (a) of this section.

(c) Plumbing installed in an area not otherwise subject to regulation under this Act by a person licensed under this Act must be installed in accordance with a plumbing code adopted by the Board under Subsection (a) or (b) of this section.

(d) In adopting plumbing codes and standards for the proper design, installation, and maintenance of a plumbing system under this section, a municipality or an owner of a public water system may amend any provisions of the codes and standards to conform to local concerns [~~adopt standards~~] that do not substantially vary with rules or laws of this state.

(e) Plumbing installed in compliance with a code adopted under Subsection (a), (b), or (d) of this section must be inspected by a plumbing inspector. To perform this inspection, the political subdivision may contract with any plumbing inspector paid directly by the political subdivision. The plumbing inspector must be licensed as required by Section 14(a) of this Act.

SECTION 4. Plumbing installed in a jurisdiction that has adopted the Southern Standard Plumbing Code or the National Standard Plumbing Code may continue to be installed in compliance with the applicable code until the jurisdiction chooses to adopt a new code allowed under this Act.

SECTION 5. (a) Except as provided by Subsection (b), this Act takes effect September 1, 2001, and applies to the design, inspection, installation, or maintenance of a plumbing system performed on or after that date. The design, inspection, installation, or maintenance of a plumbing system performed before that date is governed by the law in effect on the date that the design, inspection, installation, or maintenance occurred, and the former law is continued in effect for that purpose.

(b) Section 3(a), The Plumbing License Law (Article 6243-101, Vernon's Texas Civil Statutes), as amended by this Act, takes effect January 1, 2002.

### **HCR 294 - ADOPTED**

**(by A. Reyna)**

The following privileged resolution was laid before the house:

#### **HCR 294**

WHEREAS, **HB 217** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

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

RESOLVED by the 77th Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to correct **HB 217** by striking Section 5B(a)(2), The Plumbing License Law (Article 6243-101, Vernon's Texas Civil Statutes), as amended by Section 3 of the senate committee substitute and substituting the following:

(2) the International Plumbing Code, as published by the International Code Council [the National Standard Plumbing Code].

**HCR 294** was adopted without objection.

### **HB 223 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 223**, A bill to be entitled An Act relating to procedural requirements applicable to the release on parole of certain sex offenders.

On motion of Representative Wise, the house concurred in the senate amendments to **HB 223**.

#### **Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 223**, Senate Committee Printing, as follows:

- (1) On page 1, lines 32 and 33, strike "with respect to" and insert "go in, on, or within a distance specified by the panel of"
- (2) On page 1, strike lines 37-40
- (3) On page 1, strike lines 46-60

### **HB 247 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 247**, A bill to be entitled An Act relating to the use by a person of stored water for wildlife management on certain property of the person.

On motion of Representative B. Turner, the house concurred in the senate amendments to **HB 247** by (Record 540): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller;

Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbraneck.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; West.

Absent, Excused, Committee Meeting — Sadler.

Absent — Burnam; King, T.; Moreno, P.; Villarreal.

### **Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 247** by striking SECTION 1 and substituting the following:

SECTION 1. Sec. 11.142. PERMIT EXEMPTIONS. (a) Without obtaining a permit, a person may construct on the person's [his] own property a dam or reservoir with normal storage of not more than 200 acre-feet of water for domestic and livestock purposes. A person who temporarily stores more than 200 acre-feet of water in a dam or reservoir described by this subsection is not required to obtain a permit for the dam or reservoir if the person can demonstrate that the person has not stored in the dam or reservoir more than 200 acre-feet of water on average in any 12-month period.

(b) Without obtaining a permit, a person may construct on the person's property in an unincorporated area a dam or reservoir with normal storage of not more than 200 acre-feet of water for commercial or noncommercial wildlife management, including fishing, but not including fish farming.

(c) Without obtaining a permit, a person who is drilling and producing petroleum and conducting operations associated with drilling and producing petroleum may take for those purposes state water from the Gulf of Mexico and adjacent bays and arms of the Gulf of Mexico in an amount not to exceed one acre-foot during each 24-hour period.

(d) [(e)] Without obtaining a permit, a person may construct or maintain a reservoir for the sole purpose of sediment control as part of a surface coal mining operation under the Texas Surface Coal Mining and Reclamation Act (Article 5920-11, Vernon's Texas Civil Statutes).

### **HB 259 - HOUSE REFUSES TO CONCUR IN SENATE AMENDMENTS CONFERENCE COMMITTEE APPOINTED**

Representative G. Lewis called up with senate amendments for consideration at this time,

**HB 259**, A bill to be entitled An Act relating to equal access to places of public accommodation.

Representative G. Lewis moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 259**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 259**: G. Lewis, chair, Chavez, Y. Davis, McClendon, and Thompson

**HB 299 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 299**, A bill to be entitled An Act relating to speed limits on state highways.

On motion of Representative Gallego, the house concurred in the senate amendments to **HB 299** by (Record 541): 140 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hardcastle; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Oliveira; Olivo; Pickett; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smith; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbraneck.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; West.

Absent, Excused, Committee Meeting — Sadler.

Absent — Ellis; Moreno, P.; Noriega.

**Senate Amendment No. 1 (Senate Floor Amendment No. 2)**

Amend **CSHB 299** (Senate committee printing) as follows:

- (1) On page 1, line 22, between "hour" and "on", insert "in daytime."
- (2) On page 1, lines 24 and 25, between "hour" and "is", insert "in daytime."

**Senate Amendment No. 2 (Senate Floor Amendment No. 3)**

Amend **CSHB 299** as follows:

(1) On page 1, strike lines 10-12 and substitute the following:

"SECTION 1. Section 545.353, Transportation Code, is amended by amending Subsection (d) and by adding Subsection (h) and (i) to read as follows:"

(2) In SECTION 1, add a new Subsection (i) to read as follows:

"(i) The speed limit authorized by subsection (h) does not apply to:

(1) trucks, other than light trucks and light trucks pulling a trailer;  
and

(2) truck tractors, trailers, and semitrailers."

(Gallego in the chair)

**HB 310 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 310**, A bill to be entitled An Act relating to the establishment and operation of veterans cemeteries.

On motion of Representative Chavez, the house concurred in the senate amendments to **HB 310**.

**Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 310** as follows:

(1) In SECTION 5 of the bill, strike the introductory language to the SECTION (Senate committee printing, page 1, line 64 and page 2, lines 1 and 2), and substitute the following:

SECTION 5. Section 164.005, Natural Resources Code, is amended by amending Subsections (c) and (e) and adding Subsections (f), (g), and (h) to read as follows:

(2) In SECTION 5 of the bill, strike the amendment to Subsection (b), Section 164.005, Natural Resources Code (Senate committee printing, page 2, lines 3-9).

(3) In SECTION 5 of the bill, in added Section 164.005(f), Natural Resources Code (Senate committee printing, page 2, line 31), strike "to build" and substitute "for".

(4) In SECTION 5 of the bill, in amended Section 164.005, Natural Resources Code (Senate committee printing, page 2, between lines 31 and 32), insert the following new subsections:

(g) In administering any of the board's financial assistance programs relating to veterans cemeteries, the board, or the board in conjunction with other state or federal agencies, may plan and design, operate, maintain, enlarge, or improve veterans cemeteries.

(h) Of the funds available in the veterans' land fund, the veterans' housing assistance fund, and the veterans' housing assistance fund II that may be used for veterans cemeteries, the board may spend not more than \$7 million each fiscal year to plan and design, operate, maintain, enlarge, or improve veterans cemeteries. The board may not use funds from the veterans' land fund, the

veterans' housing assistance fund, or the veterans' housing assistance fund II to acquire land to be used for a veterans cemetery.

**HB 328 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 328**, A bill to be entitled An Act relating to single-member trustee districts for certain school districts.

Representative Swinford moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 328**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 328**: Gallego, chair, Sadler, Walker, Swinford, and Raymond.

**HB 393 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS**

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

**HB 393**, A bill to be entitled An Act relating to certain nonprofit entities that provide health or long-term care or health benefit plans; providing a penalty.

Representative Maxey moved that the house concur in the senate amendments to **HB 393**.

Representative Corte offered a substitute motion that the house not concur and that a conference committee be requested to adjust the differences between the two houses on the bill.

Representative Gray moved to table the substitute motion that the house not concur.

A record vote was requested.

The motion to table was lost by (Record 542): 40 Yeas, 92 Nays, 2 Present, not voting.

Yeas — Alexander; Burnam; Capelo; Coleman; Counts; Danburg; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Edwards; Glaze; Goodman; Gray; Gutierrez; Hawley; Hinojosa; Hochberg; Jones, J.; Kitchen; Lewis, G.; Lewis, R.; Maxey; McReynolds; Moreno, J.; Naishtat; Noriega; Olivo; Pickett; Pitts; Ritter; Telford; Thompson; Turner, B.; Uher; Uresti; Villarreal; Wise; Zbranek.

Nays — Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Callegari; Carter; Chavez; Chisum; Christian; Clark; Corte; Crabb; Craddick; Crownover; Davis, J.; Delisi; Denny; Driver; Ellis;

Farabee; Farrar; Garcia; George; Geren; Giddings; Goolsby; Green; Grusendorf; Haggerty; Hamric; Hardcastle; Hartnett; Heflin; Hilderbran; Hill; Hodge; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Keel; Keffer; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Longoria; Luna; Madden; Marchant; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Miller; Morrison; Mowery; Najera; Nixon; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Salinas; Seaman; Shields; Smith; Smithee; Solomons; Swinford; Talton; Tillery; Truitt; Turner, S.; Walker; Williams; Wohlgemuth; Wolens; Woolley; Yarbrough.

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

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; West.

Absent, Excused, Committee Meeting — Sadler.

Absent — Cook; Ehrhardt; Eiland; Elkins; Flores; Homer; Moreno, P.; Oliveira; Solis; Wilson.

### COMMITTEE GRANTED PERMISSION TO MEET

Representative Dunnam requested permission for the conference committee on **HB 6** to meet while the house is in session.

Permission to meet was granted without objection.

### COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Conference committee on **HB 6**, 4 p.m. today, Betty King conference room.

### LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence for the remainder of today to attend a meeting of the conference committee on **HB 6**:

Dunnam on motion of R. Lewis.

Hardcastle on motion of R. Lewis.

Olivo on motion of R. Lewis.

The following member was granted leave of absence temporarily for today to attend a meeting of the conference committee on **HB 6**:

Smith on motion of R. Lewis

### **HB 393 - (consideration continued)**

Representative Corte's substitute motion that the house not concur in senate amendments and that a conference committee be requested was withdrawn.

Representative Maxey's motion to concur in the senate amendments to **HB 393** was withdrawn.

Representative Maxey moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 393**.

The motion prevailed without objection.

The chair announced the appointment of the following conference



committee, on the part of the house, on **HB 393**: Maxey, chair, Gray, Longoria, Corte, and Kitchen.

**HB 342 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 342**, A bill to be entitled An Act relating to the study of disease management programs for children's asthma.

On motion of Representative McClendon, the house concurred in the senate amendments to **HB 342**.

**Senate Committee Substitute**

**CSHB 342**, A bill to be entitled An Act relating to the study of disease management programs for children's asthma.

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

SECTION 1. Subtitle D, Title 2, Health and Safety Code, is amended by adding Chapter 95 to read as follows:

CHAPTER 95. CHILDREN'S ASTHMA DISEASE  
MANAGEMENT PILOT STUDY

Sec. 95.001. CHILDREN'S ASTHMA DISEASE MANAGEMENT PILOT STUDY. (a) The department by rule shall establish a pilot study to compare preventative disease management methods for treating children's asthma with traditional methods of treating the disease.

(b) The department shall conduct the pilot study in six areas of the state, in urban and rural settings.

(c) In conducting the pilot study the department shall use disease management techniques that are transferable to private practice and to other geographical areas of the state.

(d) The pilot study may measure the following outcomes:

- (1) school absenteeism;
- (2) hospitalization;
- (3) frequency of asthma symptoms;
- (4) impact of the disease on the family; and
- (5) economic effects of the disease, including:

(A) income lost by parents as a result of days missed from work; and

(B) income lost by schools as a result of student absenteeism.

(e) In conducting the pilot study, the department may use the expertise of an academic institution or nonprofit organization.

(f) The department may use prospective simulation-based analysis to project the outcomes in Subsection (d).

Sec. 95.002. REPORT. (a) Not later than November 1, 2002, the department shall submit to the legislature an interim written report containing the findings of the pilot study.

(b) Not later than November 1, 2003, the department shall submit to the legislature a final written report containing the findings of the pilot study and the department's recommendations.

Sec. 95.003. EXPIRATION DATE. This chapter expires September 1, 2005.

SECTION 2. If before implementing Section 1 of this Act the Texas Department of Health determines that a waiver or authorization from a federal agency is necessary for implementation, the appropriate department shall request the waiver or authorization and may delay implementing those provisions until the waiver or authorization is granted.

SECTION 3. This Act takes effect September 1, 2001.

### **Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **CSHB 342** by adding the following appropriately numbered SECTIONS of the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. (a) The commissioner of public health shall establish an asthma and allergy research advisory committee.

(b) The asthma and allergy research advisory committee is composed of nine members appointed by the governor, in consultation with the lieutenant governor and the speaker of the house of representatives.

(c) The governor shall select members of the asthma and allergy research advisory committee based on the members' experience, expertise, or special interest in asthma and allergy and:

(1) asthma and allergy education;

(2) indoor air quality;

(3) the public school system and its dealings with children with asthma and an allergy;

(4) epidemiology;

(5) pharmacology;

(6) parenting a child with asthma or an allergy; or

(7) immunology.

(d) The commissioner of public health shall select a member of the asthma and allergy research advisory committee to serve as the presiding officer of the committee. The presiding officer may not be an officer or employee of the state.

(e) The asthma and allergy research advisory committee shall:

(1) develop a plan to research asthma and allergy and medical conditions associated with asthma and allergy in this state;

(2) assess the resources and talent of institutions in this state as possible sites for research opportunities;

(3) analyze the impact of asthma and allergy on the economy of this state and on the health of the residents of this state;

(4) make recommendations to the legislature and governor concerning research programs in asthma and allergy and funding alternatives for the programs; and

(5) advise the Health and Human Services Commission in conducting the children's asthma disease management pilot program under Chapter 95, Health and Safety Code, as added by this Act.

(f) The asthma and allergy research advisory committee shall meet at

least four times as determined by the presiding officer. A professional facilitator with experience in strategic planning shall facilitate meetings of the committee.

(g) A member of the asthma and allergy research advisory committee may not receive compensation for service on the committee but is entitled to reimbursement for reasonable and necessary travel expenses incurred by the member while conducting the business of the committee as provided by general law and the General Appropriations Act.

(h) Not later than December 1, 2002, the commissioner of public health shall submit a report prepared by the committee to the governor, lieutenant governor, and speaker of the house of representatives regarding asthma and allergy that comprehensively addresses the issues listed in Subsection (e) of this section.

SECTION \_\_\_\_\_. (a) The governor shall appoint members to the asthma and allergy research advisory committee not later than the 90th day after the effective date of this Act.

(b) The asthma and allergy research advisory committee is abolished January 1, 2003.

(c) This section and Section \_\_ of this Act requiring the establishment of the asthma and allergy research advisory committee expire September 1, 2003.

### **HB 396 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 396**, A bill to be entitled An Act relating to the requirement that an applicant for a driver's license provide certain identification information to the Department of Public Safety.

On motion of Representative Wise, the house concurred in the senate amendments to **HB 396**.

#### **Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 396** by striking Section 2 of the bill and substituting in lieu thereof the following:

SECTION 2. Section 521.142(a), Transportation Code, is amended to read as follows:

(a) An application for an original license must state the applicant's full name and place and date of birth. This information must be verified by presentation of valid proof of identity from an independent verifiable source [~~satisfactory~~] to the department. Proof of identity is sufficient if the proof presented is:

(1) a driver's license or personal identification certificate issued to the applicant by the department, regardless of whether the license or certificate has expired;

(2) a valid driver's license or valid identification document bearing a photograph of the applicant and issued to the applicant by another state;

(3) a passport, federal identification card, voter identification card or work permit bearing a photograph of the applicant and issued to the applicant by another country or a governmental agency of another country;

- (4) a duplicate original birth certificate or a certified copy of a birth certificate issued by this or another state or by another country, if accompanied by supporting documentation required by department rule; or  
 (5) any other proof of identity satisfactory to the department.

**Senate Amendment No. 2 (Senate Floor Amendment No. 2)**

Amend **HB 396** (Committee Printing) as follows:

- (1) In SECTION 1 of the bill, added Subsection (h)(3), Section 231.302, Family Code, on page 1, line 37, strike "temporary" and substitute "tax".  
 (2) In SECTION 1 of the bill, added Subsection (h)(4), Section 231.302, Family Code, on page 1, line 41, strike "temporary" and substitute "tax".  
 (3) In SECTION 1 of the bill, added Subsection (i), Section 231.302, Family Code, on page 1, line 49, strike "temporary" and substitute "tax".

**Senate Amendment No. 3 (Senate Floor Amendment No. 3)**

Amend **HB 396** by inserting the following new SECTION, appropriately numbered, and renumbering the subsequent SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 20.063, Election Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) Except as provided by Subsection (e), the < The > Department of Public Safety shall provide to each person who applies in person at the department's offices for an original or renewal of a driver's license, a personal identification card, or a duplicate or corrected license or card an opportunity to complete a voter registration application form.

(e) The Department of Public Safety may not provide a voter registration application form to a person described by Subsection (a) who presents as proof of identity a document described by Section 521.142(a)(3), Transportation Code, or a duplicate original birth certificate issued by another country or a certified copy of a birth certificate issued by another country unless the person also presents acceptable proof that the person is a United States citizen.

**HB 400 - HOUSE CONCURS IN SENATE AMENDMENTS  
 TEXT OF SENATE AMENDMENTS**

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

**HB 400**, A bill to be entitled An Act relating to establishing a pilot program to assist prospective students in enrolling in institutions of higher education.

On motion of Representative Giddings, the house concurred in the senate amendments to **HB 400**.

**Senate Committee Substitute**

**CSHB 400**, A bill to be entitled An Act relating to assisting prospective students in enrolling in institutions of higher education.

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

SECTION 1. Subchapter Z, Chapter 29, Education Code, is amended by adding Section 29.903 to read as follows:

Sec. 29.903. PLAN TO INCREASE ENROLLMENT IN INSTITUTIONS OF HIGHER EDUCATION. (a) This section applies only to a school district with one or more high schools that:

(1) during the preceding five years, have had an average of at least 26 students in the high school graduating class; and

(2) for any two consecutive years during the preceding five years, have been among the lowest 10 percent of high schools in this state in the percentage of students graduating from the high school and enrolling for the following academic year in an institution of higher education.

(b) The agency and the Texas Higher Education Coordinating Board shall collaborate in identifying each school district to which this section applies. Not later than May 1 of each year:

(1) the agency shall notify a district to which this section applies of the applicability of this section to the district unless the district is operating under a plan required by this section; and

(2) the coordinating board shall notify each public institution of higher education in this state in closest geographic proximity to a district to which this section applies of the applicability of this section to the district unless the district is operating under a plan required by this section.

(c) Except as otherwise provided by this subsection, not later than August 1 of the year in which a school district receives notice under Subsection (b), the district shall enter into an agreement with the public institution of higher education in this state in closest geographic proximity to the district to develop a plan to increase the percentage of the district's graduating seniors who enroll in an institution of higher education for the academic year following graduation. The public institution of higher education in this state in closest geographic proximity to the district shall enter into an agreement under this subsection unless that institution of higher education or the district recruits another public institution of higher education in this state to enter into that agreement. A district and the public institution of higher education entering into the agreement with the district may also enter into an agreement with one or more other public institutions of higher education in this state to participate in developing the plan.

(d) A plan developed under this section:

(1) must establish clear, achievable goals for increasing the percentage of the school district's graduating seniors, particularly the graduating seniors attending a high school described by Subsection (a), who enroll in an institution of higher education for the academic year following graduation;

(2) must establish an accurate method of measuring progress toward the goals established under Subdivision (1) that may include the percentage of district high school students and the percentage of students attending a district high school described by Subsection (a) who:

(A) are enrolled in a course for which a student may earn college credit, such as an advanced placement or international baccalaureate course or a course offered through concurrent enrollment in high school and at an institution of higher education;

(B) are enrolled in courses that meet the curriculum

requirements for the recommended or advanced high school program as determined under Section 28.025;

(C) have submitted a free application for federal student aid (FAFSA);

(D) are exempt under Section 51.306(l) or (m) from administration of a test instrument under Section 51.306 or have performed successfully on a test instrument under Section 51.306;

(E) graduate from high school;

(F) graduate from an institution of higher education; and

(G) have taken college entrance examinations and the average score of those students on the examinations;

(3) must cover a period of at least five years; and

(4) may be directed at district students at any level of primary or secondary education.

(e) A school district shall file the plan with the commissioner of education and the commissioner of higher education.

(f) A school district must implement the plan at the beginning of the school year following the year during which the district receives notice under Subsection (b).

(g) A school district may revise the plan as necessary in response to achieving or failing to achieve goals under the plan.

SECTION 2. Subchapter C, Chapter 61, Education Code, is amended by adding Section 61.088 to read as follows:

Sec. 61.088. HIGHER EDUCATION ASSISTANCE PILOT PROGRAM. (a) The board shall administer and coordinate the Higher Education Assistance Pilot Program to:

(1) provide to prospective students in three areas of this state with the highest number of students who do not attend institutions of higher education, as determined by the board, information related to enrollment in public or private or independent institutions of higher education, including admissions and financial aid information; and

(2) assist those prospective students in completing applications related to enrollment in those institutions, including admissions and financial aid applications.

(b) The board shall provide the information and assistance required by this section at least twice each year at one or more appropriate locations in each area served by the pilot program.

(c) The board may coordinate with an institution of higher education or other entity to provide the information and assistance required by this section in each area served by the pilot program.

(d) Not later than August 31, 2003, the board shall submit to the legislature a report on the effectiveness of the pilot program, including recommendations on whether to implement the program on a statewide basis.

(e) The pilot program ends and this section expires August 31, 2003.

SECTION 3. The Texas Higher Education Coordinating Board is required to implement Section 61.088, Education Code, as added by this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the board may implement Section 61.088 using other appropriations available for the purpose.

SECTION 4. Notwithstanding Section 29.903, Education Code, as added by this Act, the Texas Education Agency and the Texas Higher Education Coordinating Board shall identify initial school districts to which that section applies and provide notice to the districts or public institutions of higher education, as applicable, as prescribed by Subsection (b), Section 29.903, Education Code, as added by this Act, as soon as practicable after the effective date of this Act but not later than September 30, 2001. Each initial school district identified shall enter into an agreement with a public institution of higher education in this state, as prescribed by Subsection (c), Section 29.903, Education Code, as added by this Act, as soon as practicable after receiving notice in accordance with this section but not later than December 31, 2001. Each initial school district shall implement a plan to increase enrollment of public school students in institutions of higher education, as prescribed by Section 29.903, Education Code, as added by this Act, beginning with the 2002-2003 school year.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

#### **HB 460 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 460**, A bill to be entitled An Act relating to the penalty for the offense of prostitution.

On motion of Representative Hartnett, the house concurred in the senate amendments to **HB 460**.

#### **Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 460** by striking SECTION 1 of the bill (Senate Committee Printing, page 1, lines 10-24) and substituting the following:

SECTION 1. Section 43.02(c), Penal Code, is amended to read as follows:

(c) An offense under this section is a Class B misdemeanor, unless the actor has previously been convicted one or two times of an offense [previously] under this section, in which event it is a Class A misdemeanor. If the actor has previously been convicted three or more times of an offense under this section, the offense is a state jail felony.

#### **HB 472 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 472**, A bill to be entitled An Act relating to the regulation of telemarketing solicitation; providing penalties.

On motion of Representative Solomons, the house concurred in the senate amendments to **HB 472** by (Record 543): 132 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farrar; Flores; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Hope; Hopson; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Pickett; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; West.

Absent, Excused, Committee Meeting — Dunnam; Hardcastle; Olivo; Sadler; Smith.

Absent — Crownover; Farabee; Green; Homer; Howard; Moreno, P.

### **Senate Amendment No. 1 (Senate Floor Amendment No. 1 - 2nd Reading)**

Amend **HB 472** by adding the following appropriately numbered Section of the bill and renumbering Sections appropriately:

SECTION \_\_\_\_\_. Subchapter D, Chapter 35, Business & Commerce Code, is amended by adding Section 35.471 to read as follows:

Sec. 35.471. SOLICITATION FOR CHARITABLE ORGANIZATION OF OR BENEFITING STATE EMPLOYEES. (a) An organization that holds itself out to be an organization of or benefiting state employees may not solicit, directly or through use of an independent solicitor, another person to make a charitable contribution unless the organization is governed by a board composed only of active or retired state employees and active employees constitute a majority of the board.

(b) An organization that holds itself out to be an organization of or benefiting a particular group of state employees or employees of a particular state agency may not solicit, directly or through use of an independent solicitor, another person to make a charitable contribution unless the organization is governed by a board composed only of active or retired state employees of that group or agency, as applicable, and active employees constitute a majority of the board.

(c) An organization that violates Subsection (a) or (b) is liable to the state for a civil penalty not to exceed \$25,000 for each violation. The attorney general may bring an action to recover the penalty.



**Senate Amendment No. 2 (Senate Floor Amendment No. 2 - 2nd Reading)**

Amend **HB 472** as follows:

1. In Section 35.471, as added by floor amendment No. 1 by inserting a new subsection (c) to read as follows:

(c) An organization that solicits, directly or through use of an independent solicitor, another person to make a charitable contribution pursuant to Subsection (a) or (b) shall use at least 40 percent of the money annually received from such solicitations for the direct benefit of the state employees, the particular group of state employees, or the employees of the particular state agency that the organization holds itself out to be an organization of or benefit.

2. Renumber subsequent subsection accordingly.

**Senate Amendment No. 3 (Senate Floor Amendment No. 1 - 3rd reading)**

Amend **HB 472** on third reading by striking second reading floor amendments No. 1 and No. 2 (by Staples).

**HB 588 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 588**, A bill to be entitled An Act relating to the creation of a DNA record for certain persons convicted of a felony or adjudicated as having engaged in delinquent conduct constituting a felony offense.

Representative Garcia moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 588**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 588**: Garcia, chair, Allen, Hinojosa, Dutton, and Solis.

**HB 598 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 598**, A bill to be entitled An Act relating to fees imposed on defendants placed on community supervision.

On motion of Representative Goodman, the house concurred in the senate amendments to **HB 598**.

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

Amend **HB 598** as follows:

On page 1, line 8, after the words "not less than" delete "\$10" and substitute "\$25".

**HB 623 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 623**, A bill to be entitled An Act relating to the selection, distribution, and use of public school textbooks; providing a criminal penalty.

On motion of Representative Hochberg, the house concurred in the senate amendments to **HB 623** by (Record 544): 136 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Garcia; George; Geren; Giddings; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Pickett; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; West.

Absent, Excused, Committee Meeting — Dunnam; Hardcastle; Olivo; Sadler; Smith.

Absent — Glaze; Moreno, P.

**HB 623 - STATEMENT OF LEGISLATIVE INTENT**

Section 31.152(b) does not preclude publishers from providing food and beverages in connection with any staff development, in-service or teacher training service which are permitted under 31.152(d)(1). The subsection intends to prevent the gifts, services, or favors from influencing the selection of a particular textbook, and not to affect services delivered by publishers after a textbook is selected.

A business luncheon is only precluded under 31.152(b) if the luncheon is meant to influence the selection of a textbook.

Teachers and administrators are not precluded from serving as an author, reviewer, or contributor to a textbook program under 31.152(b). Payment for serving as an author, reviewer, or contributor is clearly not a "gift, favor, or service," because the educator has earned the money.

Hochberg

### Senate Committee Substitute

**CSHB 623**, A bill to be entitled An Act relating to the selection, distribution, and use of public school textbooks; providing administrative and criminal penalties.

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

SECTION 1. Section 26.006, Education Code, is amended by adding Subsection (c) to read as follows:

(c) A student's parent is entitled to request that the school district or open-enrollment charter school the student attends allow the student to take home any textbook used by the student. Subject to the availability of a textbook, the district or school shall honor the request. A student who takes home a textbook must return the textbook to school at the beginning of the next school day if requested to do so by the student's teacher. In this subsection, "textbook" has the meaning assigned by Section 31.002.

SECTION 2. Subchapter B, Chapter 31, Education Code, is amended by adding Section 31.030 to read as follows:

Sec. 31.030. USED TEXTBOOKS. The State Board of Education shall adopt rules to ensure that used textbooks sold to school districts and open-enrollment charter schools are not sample copies that contain factual errors. The rules may provide for the imposition of an administrative penalty in accordance with Section 31.151 against a seller of used textbooks who knowingly violates this section.

SECTION 3. Subchapter C, Chapter 31, Education Code, is amended by adding Section 31.1011 to read as follows:

Sec. 31.1011. TEXTBOOK CREDITS. (a) The commissioner shall implement a program to study the use of credits for textbooks. The program shall be designed to allow a participating school district or open-enrollment charter school to receive credit for textbooks purchased at a cost below the cost limit established under Section 31.025(a).

(b) The credit is an amount equal to the difference between the price paid for a textbook and the cost limit established under Section 31.025(a) for that textbook multiplied by the number of copies of that textbook the participating school district or open-enrollment charter school purchases.

(c) Fifty percent of the total textbook credit of a participating school district or open-enrollment charter school shall be credited to the state textbook fund, and 50 percent of the credit shall be credited to the participating district or school to apply toward the requisition of additional textbooks or electronic textbooks on the conforming or nonconforming list.

(d) The commissioner shall prepare a report relating to the use of the textbook credit system and deliver the report to the 79th Legislature.

(e) This section expires September 1, 2005.

SECTION 4. Section 31.103, Education Code, is amended by adding Subsection (c) to read as follows:

(c) In making a requisition under this section, a school district or open-enrollment charter school may requisition textbooks on the conforming or nonconforming list for grades above the grade level in which a student is enrolled, except that the total quantity of textbooks requisitioned under this section may not exceed the limit prescribed by Subsection (b).

SECTION 5. Subchapter C, Chapter 31, Education Code, is amended by adding Section 31.1031 to read as follows:

Sec. 31.1031. SHORTAGE OF REQUISITIONED TEXTBOOKS. If a school district or open-enrollment charter school does not have a sufficient number of copies of a textbook used by the district or school for use during the following school year, and a sufficient number of additional copies will not be available from the depository or the publisher within the time specified by Section 31.151(a)(8), the district or school is entitled to:

(1) be reimbursed from the state textbook fund, at a rate and in the manner provided by State Board of Education rule, for the purchase of a sufficient number of used adopted textbooks; or

(2) return currently used textbooks to the commissioner in exchange for sufficient copies, if available, of other textbooks on the conforming or nonconforming list to be used during the following school year.

SECTION 6. Section 31.104(c), Education Code, is amended to read as follows:

(c) Each textbook must state that the textbook is the property of or is licensed to this state, as appropriate. ~~[A school district or open-enrollment charter school must number or place another identifying mark on each textbook. Each teacher shall keep a record of the number or other identifying mark of each textbook issued to each student.]~~ Each textbook, other than an electronic textbook, must be covered by the student under the direction of the teacher. ~~[Subject to availability, each school district or open-enrollment charter school shall, at the request of a parent or guardian of a student enrolled in the district or school, allow the student to take home any textbook, other than an electronic textbook, used by the student. The student must return the textbook to school at the beginning of the next school day.]~~ A student must return all textbooks to the teacher at the end of the school year or when the student withdraws from school.

SECTION 7. Section 31.151(a), Education Code, is amended to read as follows:

(a) A publisher or manufacturer of textbooks:

(1) shall furnish any textbook the publisher or manufacturer offers in this state, at a price that does not exceed the lowest price at which the publisher offers that textbook for adoption or sale to any state, public school, or school district in the United States;

(2) shall automatically reduce the price of a textbook sold for use in a school district or open-enrollment charter school to the extent that the price is reduced elsewhere in the United States;

(3) shall provide any textbook or ancillary item free of charge in this state to the same extent that the publisher or manufacturer provides the textbook or ancillary item free of charge to any state, public school, or school district in the United States;

(4) shall guarantee that each copy of a textbook sold in this state is at least equal in quality to copies of that textbook sold elsewhere in the United States and is free from factual error;

(5) may not become associated or connected with, directly or indirectly, any combination in restraint of trade in textbooks or enter into any understanding or combination to control prices or restrict competition in the sale of textbooks for use in this state;

(6) shall maintain a depository in this state or arrange with a depository in this state to receive and fill orders for textbooks, consistent with State Board of Education rules;

(7) shall, at the time an order for textbooks is acknowledged, provide to school districts or open-enrollment charter schools an accurate shipping date for textbooks that are back-ordered;

(8) shall guarantee delivery of textbooks at least 10 business days before the opening day of school of the year for which the textbooks are ordered if the textbooks are ordered by a date specified in the sales contract; and

(9) [~~(8)~~] shall submit to the State Board of Education an affidavit certifying any textbook the publisher or manufacturer offers in this state to be free of factual errors at the time the publisher executes the contract required by Section 31.026.

SECTION 8. Section 31.152, Education Code, is amended to read as follows:

Sec. 31.152. ACCEPTING REBATE ON TEXTBOOKS. (a) A school trustee, administrator, or teacher commits an offense if that person receives any commission or rebate on any textbooks used in the schools with which the person is associated as a trustee, administrator, or teacher.

(b) A school trustee, administrator, or teacher commits an offense if the person accepts a gift, favor, or service that:

(1) is given to the person or the person's school;

(2) might reasonably tend to influence a trustee, administrator, or teacher in the selection of a textbook; and

(3) could not be lawfully purchased with funds from the state textbook fund.

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

(d) In this section, "gift, favor, or service" does not include:

(1) staff development, in-service, or teacher training; or

(2) instructional materials, such as maps or worksheets, that convey information to the student or otherwise contribute to the learning process.

SECTION 9. (a) The change in law made by Section 8 of this Act applies only to an offense committed on or after September 1, 2001. For the purposes of this section, an offense is committed before September 1, 2001, if any element of the offense occurs before that date.

(b) An offense committed before September 1, 2001, is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 10. (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

(b) Section 8 of this Act takes effect September 1, 2001.

### **HB 631 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 631**, A bill to be entitled An Act relating to fines for illegal dumping.

On motion of Representative S. Turner, the house concurred in the senate amendments to **HB 631**.

**Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 631**, on page 3, line 15, by inserting the following after Subsection (n) to read as follows:

(o) For purposes of a prosecution under subsection (g) of this section, a generator creates a rebuttable presumption of lack of culpable mental state if the generator of the solid waste to be disposed of secures, prior to the hauler's receipt of the solid waste, a signed statement from the hauler that the solid waste will be disposed of legally. The statement shall include the hauler's valid Texas drivers license number.

**HB 653 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 653**, A bill to be entitled An Act relating to the prosecution of and punishment for the offense of cruelty to animals.

On motion of Representative Najera, the house concurred in the senate amendments to **HB 653**.

**Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 653** (Senate Committee Printing) by striking all below the enacting clause and substituting the following:

SECTION 1. Section 42.09, Penal Code, is amended by amending Subsections (a), (c), and (d) and adding Subsections (g) and (h) to read as follows:

(a) A person commits an offense if a person [~~he~~] intentionally or knowingly:

- (1) tortures [~~or seriously overworks~~] an animal;
- (2) fail unreasonably to provide necessary food, care, or shelter for an animal in the person's [~~his~~] custody;
- (3) abandons unreasonably an animal in the person's [~~his~~] custody;
- (4) transports or confines an animal in a cruel manner;
- (5) kills, seriously injures, or administers poison to an animal, other than cattle, horses, sheep, swine, or goats, belonging to another without legal authority or the owner's effective consent;
- (6) causes one animal to fight with another;
- (7) uses a live animal as a lure in dog race training or in dog coursing on a racetrack; [~~or~~]
- (8) trips a horse;
- (9) injures an animal, other than cattle, horses, sheep, swine, or goats, belonging to another without legal authority or the owner's effective consent; or

(10) seriously overworks an animal.

(c) For purposes of this section:

(1) "Abandon" includes abandoning an animal in the person's custody without making reasonable arrangements for assumption of custody by another person.

(2) "Animal" means a domesticated living creature and wild living creature previously captured. "Animal" does not include an uncaptured wild creature or a wild creature whose capture was accomplished by conduct at issue under this section.

(3) "Cruel manner" includes a manner that causes or permits unjustified or unwarranted pain or suffering.

(4) "Custody" includes responsibility for the health, safety, and welfare of an animal subject to the person's care and control, regardless of ownership of the animal.

(5) "Necessary food, care, or shelter" includes food, care, or shelter provided to the extent required to maintain the animal in a state of good health.

(6) [(2)] "Trip" means to use an object to cause a horse to fall or lose its balance.

(d) An offense under Subsection (a)(2), (3), (4), (9), or (10) [this section] is a Class A misdemeanor, except that the offense is a state jail felony if the person has previously been convicted two times under this section.

(g) An offense under Subsection (a)(1), (5), (6), (7), or (8) is a state jail felony, except that the offense is a felony of the third degree if the person has previously been convicted two times under this section.

(h) It is an exception to the application of this section that the conduct engaged in by the actor is a generally accepted and otherwise lawful:

(1) use of an animal if that use occurs solely for the purpose of:

(A) fishing, hunting, or trapping; or

(B) wildlife control as regulated by state and federal law; or

(2) animal husbandry or farming practice involving livestock.

SECTION 2. Chapter 54, Family Code, is amended by adding Section 54.0407 to read as follows:

Sec. 54.0407. CRUELTY TO ANIMALS: COUNSELING REQUIRED. If a child is found to have engaged in delinquent conduct constituting an offense under Section 42.09, Penal Code, the juvenile court shall order the child to participate in psychological counseling for a period to be determined by the court.

SECTION 3. This Act takes effect September 1, 2001, 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.

### **HB 678 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 678**, A bill to be entitled An Act relating to collection and use of biometric identifiers; providing a civil penalty.

On motion of Representative McCall, the house concurred in the senate amendments to **HB 678**.

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

Amend **HB 678**, Section 35.50(c)(1)(B), Business and Commerce Code, page 1 line 22, between "requested" and "by", by inserting "or authorized"

**HB 706 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 706**, A bill to be entitled An Act relating to the emergency possession of and termination of the parent-child relationship of certain abandoned children.

On motion of Representative Morrison, the house concurred in the senate amendments to **HB 706**.

**Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend, **HB 706** on page 3, lines 62 through 69, SECTION 4, Subchapter D, Chapter 262, Family Code, Sec. 262.302, by striking subsection (c) and replacing it with a new (c) as follows:

(c) A designated emergency infant care provider [An emergency medical services provider] who takes possession of a child under this section shall perform any act necessary to protect the physical health or safety of the child. The designated emergency infant care provider is not liable for damages related to the provider's taking possession of, examining, or treating the child, except for damages related to the provider's negligence.

**Senate Amendment No. 2 (Senate Floor Amendment No. 2)**

Amend **HB 706**, in SECTION 4 of the bill, by striking amended Section 262.302(b), Family Code (Senate committee printing page 3, lines 57-61), and substituting the following:

(b) A designated emergency infant care provider who takes possession of a child under this section has no legal duty to detain or pursue the parent and may not do so unless the child appears to have been abused or neglected. The designated emergency infant care provider has no legal duty to ascertain the parent's identity and the parent may remain anonymous. However, the parent may be given a form for voluntary disclosure of the child's medical facts and history.

**HB 785 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 785**, A bill to be entitled An Act relating to the liability for performing certain services for another governmental unit.



On motion of Representative Isett, the house concurred in the senate amendments to **HB 785**.

### Senate Committee Substitute

**CSHB 785**, A bill to be entitled An Act relating to the liability for performing certain services for another governmental unit.

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

SECTION 1. Section 791.006, Government Code, is amended to read as follows:

Sec. 791.006. Liability in Fire Protection Contract or Provision of Law Enforcement Services. (a) If governmental units contract under this chapter to furnish or obtain the ~~[fire protection]~~ services of a fire department, the governmental unit that would have been responsible for furnishing the services in the absence of the contract is responsible for any civil liability that arises from the furnishing of those services.

(b) In the absence of a contract, if a municipality or county furnishes law enforcement services to another municipality or county, the governmental unit that requests and obtains the services is responsible for any civil liability that arises from the furnishing of those services.

(c) Nothing in this section adds to or changes the liability limits and immunities for a governmental unit provided by the Texas Tort Claims Act, Chapter 101, Civil Practice and Remedies Codes, or other law.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

### **HB 820 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 820**, A bill to be entitled An Act relating to the number of qualified businesses designated as enterprise projects in certain municipalities.

On motion of Representative Giddings, the house concurred in the senate amendments to **HB 820**.

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

Amend **HB 820** (house engrossment) as follows:

(1) In SECTION 2 of the bill, in added Section 2303.406(d), Government Code (page 1, lines 18-19), strike "in each municipality" and substitute "for each nominating body".

(2) In SECTION 2 of the bill, in added Section 2303.406(d)(1), Government Code (page 1, line 21), between "municipality" and "with" insert "or county".

(3) In SECTION 2 of the bill, in added Section 2303.406(d)(2), Government Code (page 1, line 24), between "municipality" and "with" insert "or county".

**HB 821 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 821**, A bill to be entitled An Act relating to cardiopulmonary resuscitation instruction for public school students.

On motion of Representative Giddings, the house concurred in the senate amendments to **HB 821** by (Record 545): 133 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Naishtat; Najera; Nixon; Noriega; Oliveira; Pickett; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Zbrank.

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

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; West.

Absent, Excused, Committee Meeting — Dunnam; Hardcastle; Olivo; Sadler; Smith.

Absent — Homer; Moreno, P.; Mowery; Villarreal; Yarbrough.

**Senate Committee Substitute**

**CSHB 821**, a bill to be entitled An Act relating to cardiopulmonary resuscitation instruction for public school students.

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

SECTION 1. Subchapter B, Chapter 7, Education Code, is amended by adding Section 7.025 to read as follows:

Sec. 7.025. DONATIONS FOR USE RELATED TO CARDIOPULMONARY RESUSCITATION (CPR) INSTRUCTION. (a) The agency may accept donations, including donations of equipment, for use in providing cardiopulmonary resuscitation (CPR) instruction to students. The agency:

(1) shall distribute the donations to school districts that provide CPR instruction to students under Section 29.903; and

(2) may use a portion of the donations to the extent necessary to pay administrative expenses related to the donations.

(b) The commissioner may adopt rules as necessary to implement this section.

SECTION 2. Subchapter Z, Chapter 29, Education Code, is amended by adding Section 29.903 to read as follows:

Sec. 29.903. CARDIOPULMONARY RESUSCITATION (CPR) INSTRUCTION: DONATIONS TO SCHOOL DISTRICTS FOR USE IN CPR INSTRUCTION. (a) A school district that provides instruction to students in the principles and techniques of cardiopulmonary resuscitation (CPR) may accept from the agency donations the agency receives under Section 7.025. The district must use those donations in providing instruction to students in the principles and techniques of CPR. A district may accept other donations, including donations of equipment, for use in providing the instruction.

(b) To the extent that resources are available to a school district under Section 7.025 or this section, the district shall provide instruction to students in the principles and techniques of CPR.

(c) A district may use resources other than those made available under Section 7.025 or this section to provide instruction to students in the principles and techniques of CPR.

(d) The commissioner may adopt rules as necessary to implement this section.

SECTION 3. It is the intent of the legislature that each student in this state receive instruction in the principles and techniques of cardiopulmonary resuscitation (CPR) through the student's school district at least once at the ninth grade level or above. Each district is strongly encouraged to aggressively pursue donations of time, equipment, and other resources necessary to implement this section. The CPR instruction under this section should conform to nationally recognized guidelines on CPR instruction.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

### **HB 824 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 824**, A bill to be entitled An Act relating to the exemption from ad valorem taxation of property owned by certain nonprofit county fair associations.

On motion of Representative Ellis, the house concurred in the senate amendments to **HB 824**.

#### **Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 824**, Senate Committee Printing, as follows:

On page 1, line 18, insert the following after "fairs." and before "To":  
An association that holds a license under the Texas Racing Act (Article 179e,

Vernon's Texas Civil Statutes) to conduct a horse race meeting or a greyhound race meeting with pari-mutuel wagering is not entitled to an exemption under this subsection. Land or a building used to conduct a horse race meeting or a greyhound race meeting with pari-mutuel wagering under that Act may not be exempted under this subsection.

### **Senate Amendment No. 2 (Senate Floor Amendment No. 2)**

Amend Floor Amendment No. 1 (by Bernsen) as follows:

(1) In the first line of the new language proposed by the amendment, between "holds a license" and "under the Texas Racing Act", insert "issued after January 1, 2001".

(2) In the fourth line of the new language proposed by the amendment, between "pari-mutuel wagering" and "under that", insert "under a license issued after January 1, 2001".

### **MESSAGE FROM THE SENATE**

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 3).

### **HB 834 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 834**, A bill to be entitled An Act relating to sale of surplus or salvage state property.

On motion of Representative Longoria, the house concurred in the senate amendments to **HB 834**.

### **Senate Committee Substitute**

**CSHB 834**, A bill to be entitled An Act relating to sale of surplus or salvage property.

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

SECTION 1. Subchapters C and D, Chapter 2175, Government Code, are amended to read as follows:

#### **SUBCHAPTER C. DIRECT TRANSFER OR OTHER DISPOSITION OF SURPLUS OR SALVAGE PROPERTY BY STATE AGENCY**

Sec. 2175.121. **STATE AGENCY NOTICE TO COMMISSION AND COMPTROLLER.** A state agency that determines it has surplus or salvage property shall inform the commission and the comptroller of the property's kind, number, location, condition, original cost or value, and date of acquisition.

Sec. 2175.122. **DETERMINING METHOD OF DISPOSAL.** (a) Based on the condition of the property, a state agency shall determine whether the property is:

(1) surplus property that should be offered for transfer under Section 2175.125 or sold to the public; or

(2) salvage property.

(b) The state agency shall inform the commission and the comptroller of its determination.

Sec. 2175.123. COMMISSION NOTICE TO OTHER ENTITIES. After a determination that ~~[On receiving notice from]~~ a state agency ~~[that the agency]~~ has surplus ~~[or salvage]~~ property, the commission shall inform other state agencies, political subdivisions, and assistance organizations of the comptroller's website that lists surplus property that is available for sale ~~[the property's kind, number, location, and condition].~~

Sec. 2175.124. ADVERTISING ON COMPTROLLER WEBSITE. Not later than the second day after the date the comptroller receives notice from a state agency that the agency has surplus property, the comptroller shall advertise the property's kind, number, location, and condition on the comptroller's website.

Sec. 2175.125 [2175.123]. DIRECT TRANSFER. During the 10 business [30] days after the date the property is posted on the comptroller's website [following dissemination of information under Section 2175.122], a state agency, political subdivision, or assistance organization may coordinate directly with the reporting state agency for a transfer of the property at a price established by the reporting agency.

Sec. 2175.126 [2175.124]. NOTICE OF TRANSFER TO COMPTROLLER; ADJUSTMENT OF APPROPRIATIONS AND PROPERTY ACCOUNTING RECORDS; REMOVAL FROM WEBSITE. (a) If property is transferred to a state agency, the participating agencies shall report the transaction to the comptroller.

(b) On receiving notice under this section, the comptroller shall, if necessary:

- (1) debit and credit the proper appropriations; and
- (2) adjust state property accounting records.

(c) Not later than the second day after the date the comptroller receives notice under Subsection (a), the comptroller shall remove the property from the list of surplus property for sale on the comptroller's website.

Sec. 2175.127 [2175.125]. PRIORITY FOR TRANSFER TO STATE AGENCY. During the 10 business [30] days after the date the property is posted on the comptroller's website [of notice under Section 2175.122], a transfer to a state agency has priority over any other transfer under rules adopted by the commission.

Sec. 2175.128 [2175.126]. DISPOSITION OF DATA PROCESSING EQUIPMENT. (a) If a disposition of a state agency's surplus or salvage data processing equipment is not made under Section 2175.125 [this subchapter], the state agency shall transfer the equipment to the Texas Department of Criminal Justice. The state agency may not collect a fee or other reimbursement from the Texas Department of Criminal Justice for the surplus or salvage data processing equipment.

(b) If a disposition of the surplus or salvage data processing equipment of a state eleemosynary institution or an institution or agency of higher education is not made under other law, the institution or agency shall transfer the equipment to the Texas Department of Criminal Justice. The institution or agency may not collect a fee or other reimbursement from the Texas Department of Criminal Justice for the surplus or salvage data processing equipment.

~~[SUBCHAPTER D. DISPOSITION OF SURPLUS OR SALVAGE  
PROPERTY BY COMPETITIVE BIDDING]~~

Sec. ~~2175.129~~ [2175.181]. ~~DISPOSITION BY COMPETITIVE BIDDING, [OR] AUCTION, OR DIRECT SALE.~~ (a) If a disposition of a state agency's surplus ~~[or salvage]~~ property is not made under Section 2175.125 ~~[Subchapter E]~~, the commission shall:

(1) sell the property by competitive bid, ~~[or] auction, or direct sale to the public, including a sale using an Internet auction site; or~~

(2) delegate to the state agency authority to sell the property by competitive bid, auction, or direct sale to the public, including a sale using an Internet auction site ~~[bidding]~~.

(b) The commission or a state agency to which authority is delegated under Subsection (a)(2) or under Section 2175.065 shall determine which method of sale shall be used based on the method that is most advantageous to the state under the circumstances. The commission shall adopt rules establishing guidelines for making that determination.

(c) In using an Internet auction site to sell surplus property under this section, the commission or state agency shall post the property on the site for at least 10 days.

Sec. ~~2175.130.~~ ~~DISPOSITION BY DIRECT SALE TO PUBLIC.~~ (a) If the commission or a state agency to which authority is delegated under Section 2175.129(a)(2) or 2175.065 determines that selling the property by competitive bid or auction, including a sale using an Internet auction site, would not maximize the resale value of the property to the state, the commission or agency may sell surplus or salvage property directly to the public.

(b) The commission, in cooperation with the state agency that declared the property as surplus, or a state agency to which authority is delegated under Section 2175.129(a)(2) or 2175.065 shall set a fixed price for the property.

Sec. ~~2175.131~~ [2175.182]. PURCHASER'S FEE. (a) The commission or a state agency disposing of property by a method other than direct transfer under this subchapter shall collect a fee from the purchaser.

(b) The commission or state agency shall set the fee at an amount that is:

(1) sufficient to recover costs associated with the sale; and

(2) at least two percent but not more than 12 percent of sale proceeds.

Sec. ~~2175.132~~ [2175.183]. ADVERTISEMENT OF SALE. If the value of an item or a lot of property to be sold is estimated to be more than \$5,000, the commission or the state agency authorized to sell the property shall advertise the sale at least once in at least one newspaper of general circulation in the vicinity in which the property is located.

Sec. ~~2175.133~~ [2175.184]. REPORTING SALE; PROPERTY ACCOUNTING ADJUSTMENT. (a) On the sale by the commission of surplus or salvage property, the commission shall report the property sold and the sale price to the state agency that declared the property as surplus or salvage.

(b) A state agency for which surplus or salvage property is sold or that sells surplus or salvage property under authority of the commission shall report the sale and amount of sale proceeds to the comptroller.

(c) If property reported under this section is on the state property accounting system, the comptroller shall remove the property from the property accounting records.

Sec. 2175.134 [~~2175.185~~]. PROCEEDS OF SALE. (a) Proceeds from the sale of surplus or salvage property, less the cost of advertising the sale, the cost of selling the surplus or salvage property, including the cost of auctioneer services, and the amount of the fee collected under Section 2175.131 [~~2175.182~~], shall be deposited to the credit of the appropriate appropriation item of the state agency for which the sale was made.

(b) The portion of sale proceeds equal to the cost of advertising the sale and the cost of selling the surplus or salvage property, including the cost of auctioneer services, shall be deposited in the state treasury to the credit of the appropriation item of the commission or other state agency from which the costs were paid.

Sec. 2175.135 [~~2175.186~~]. PURCHASER'S TITLE. A purchaser of surplus [~~or salvage~~] property at a sale conducted under Section 2175.129 or 2175.130 [~~this subchapter~~] obtains good title to the property if the purchaser has in good faith complied with:

- (1) the conditions of the sale; and
- (2) applicable commission rules.

SECTION 2. Section 403.271(a), Government Code, is amended to read as follows:

(a) This subchapter applies to:

- (1) all personal property belonging to the state; and
- (2) real and personal property acquired by or otherwise under the jurisdiction of the state under 40 U.S.C. Section 483c, 484(j), or 484(k), and Subchapter F [~~G~~], Chapter 2175.

SECTION 3. Section 2155.084(c), Government Code, is amended to read as follows:

(c) In negotiating purchases of goods from the federal government under this section or under Subchapter F [~~G~~], Chapter 2175, the commission or the governing body of the institution of higher education may waive the requirement of a bidder's bond and performance bond that otherwise would be required.

SECTION 4. The heading of Subchapter E, Chapter 2175, Government Code, is amended to read as follows:

SUBCHAPTER D [~~E~~]. DESTRUCTION OF SURPLUS  
OR SALVAGE PROPERTY

SECTION 5. The heading of Subchapter F, Chapter 2175, Government Code, is amended to read as follows:

SUBCHAPTER E [~~F~~]. EXCEPTIONS

SECTION 6. The heading of Subchapter G, Chapter 2175, Government Code, is amended to read as follows:

SUBCHAPTER F [~~G~~]. FEDERAL SURPLUS PROPERTY

SECTION 7. This Act takes effect September 1, 2001.

**HB 835 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 835**, A bill to be entitled An Act relating to the study of a buy-in option for the state child health plan.

On motion of Representative Kitchen, the house concurred in the senate amendments to **HB 835** by (Record 546): 133 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farrar; Flores; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Pickett; Pitts; Puente; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; West.

Absent, Excused, Committee Meeting — Dunnam; Hardcastle; Olivo; Sadler; Smith.

Absent — Farabee; Gray; Moreno, P.; Ramsay; Villarreal.

### **Senate Committee Substitute**

**CSHB 835**, A bill to be entitled An Act relating to the study of a buy-in option for the state child health plan.

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

SECTION 1. (a) In this section, "commission" means the Health and Human Services Commission.

(b) The commission shall conduct a study to determine the feasibility of a buy-in option to allow families without access to health benefits coverage to purchase health benefits coverage for all family members under the state child health plan under Chapter 62, Health and Safety Code.

(c) To determine the feasibility of the buy-in option, the commission shall examine:

- (1) the fiscal impact on the state of a buy-in option;
- (2) the fiscal impact on families that would choose to participate in the plan through a buy-in option;
- (3) the cost of a comparable health benefits plan in the current market;



- (4) the need for a buy-in option, by determining:
  - (A) the number of families that would likely choose to participate in the plan through a buy-in option; and
  - (B) whether families that are not covered by a health benefits plan and that would participate in the program through a buy-in option could be covered in the private market;
- (5) the role of private insurance agents in enrollment in the plan through the buy-in option;
- (6) the possible effects that a buy-in option to the plan would have on the private market for health benefits plan coverage;
- (7) the options for the system of delivery for plan benefits; and
- (8) the options for obtaining federal matching funds for the program, including the use of local government funds.

(d) In conducting the study the commission shall consult consumer groups interested in the private market for health benefits plan coverage and members of the issuers of health benefits plan coverage in the private market, including agents and actuaries. The commission may consult other groups in conducting the study and may consult with other agencies of this state to obtain necessary data.

(e) Not later than November 1, 2002, the commission shall submit to the governor, lieutenant governor, and speaker of the house of representatives a written report containing the findings of the study.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

### **HB 877 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 877**, A bill to be entitled An Act relating to the benefits provided to the surviving spouse and minor children of certain public employees killed in the line of duty.

On motion of Representative Longoria, the house concurred in the senate amendments to **HB 877** by (Record 547): 129 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Christian; Clark; Coleman; Cook; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez

Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smithee; Solis; Solomons; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; Williams; Wise; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; West.

Absent, Excused, Committee Meeting — Dunnam; Hardcastle; Olivo; Sadler; Smith.

Absent — Chisum; Corte; Hawley; Moreno, P.; Pickett; Swinford; Uher; Wilson; Wohlgemuth.

### Senate Committee Substitute

**CSHB 877**, A bill to be entitled An Act relating to the benefits provided to the surviving spouse and minor children of certain public employees killed in the line of duty.

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

SECTION 1. Section 615.023, Government Code, is amended by adding Subsection (d) to read as follows:

(d) Assistance payable under this section to a minor child of a peace officer or employee of the institutional division or state jail division of the Texas Department of Criminal Justice, as described by Section 615.003(1) or (6), is not dependent on the deceased peace officer or employee being vested in the Employees Retirement System of Texas before death.

SECTION 2. Chapter 615, Government Code, is amended by adding Subchapter F to read as follows:

#### SUBCHAPTER F. ADDITIONAL BENEFITS FOR SURVIVOR OF PEACE OFFICER

Sec. 615.121. PAYMENT TO SURVIVING SPOUSE. (a) The state shall pay the following benefits to an eligible surviving spouse of a peace officer or an employee of the institutional division or state jail division of the Texas Department of Criminal Justice, as described by Section 615.003(1) or (6), who was killed in the line of duty and who had not qualified for an annuity under an employees' retirement plan:

- (1) funeral expenses related to the deceased officer or employee; and
- (2) monthly payments that equal the greater of:

(A) the monthly annuity payment the deceased officer or employee would have received if the officer or employee had survived, had retired on the last day of the month in which the officer or employee died, and had been eligible to receive an annuity under an employees' retirement plan; or

(B) the minimum monthly annuity payment the deceased officer or employee would have received if the officer or employee had been employed by the state for 10 years, had been paid a salary at the lowest amount provided by the General Appropriations Act for a position of peace

officer or employee of the institutional division or state jail division of the Texas Department of Criminal Justice, as described by Section 615.003(1) or (6), and had been eligible to retire under the Employees Retirement System of Texas.

(b) The surviving spouse is entitled to continue to receive monthly payments under Subsection (a) until the earlier of:

(1) the date the surviving spouse remarries;

(2) the date the surviving spouse becomes eligible for retirement under an employees' retirement plan; or

(3) the date the surviving spouse becomes eligible for Social Security benefits.

(c) The Employees Retirement System of Texas may require the surviving spouse to provide information as necessary to administer this section.

(d) The Employees Retirement System of Texas may adopt rules necessary to administer this section including rules:

(1) setting the maximum amount of funeral expenses payable under this subchapter; and

(2) calculating the survivor benefits payable under this subchapter.

(e) The Employees Retirement System of Texas shall apply reduction factors, as applicable to an annuity payable under this section, in the same manner the factors are applied to a death benefit plan administered by the system.

Sec. 615.122. PAYMENT TO SURVIVING MINOR CHILDREN. If an eligible surviving spouse who would be entitled to benefits under Section 615.121 does not exist but one or more eligible surviving minor children of the deceased peace officer or employee of the institutional division or state jail division of the Texas Department of Criminal Justice, as described by Section 615.003(1) or (6), do exist, the state shall pay to the guardian or other legal representative of those children the funeral expenses of the deceased officer or employee.

Sec. 615.123. BENEFITS ADDITIONAL. The benefits provided by this subchapter are in addition to any other benefits provided by this chapter.

SECTION 3. Subchapter F, Chapter 615, Government Code, as added by this Act, applies only to the payment of benefits in relation to a peace officer or employee killed in the line of duty on or after September 1, 2001.

SECTION 4. This Act takes effect September 1, 2001.

### **Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **CSHB 877** (Senate Committee Printing) as follows:

(1) Strike SECTION 1 of the bill (page 1, lines 13-20).

(2) Strike SECTION 4 of the bill (page 2, line 20).

(3) Add the following appropriately numbered SECTIONS to the bill and renumber the SECTIONS of the bill accordingly:

SECTION \_\_\_\_\_. Section 615.021(a), Government Code, is amended to read as follows:

(a) A survivor of an individual listed under Section 615.003 is eligible for the payment of assistance under this chapter if:

(1) the listed individual died in the course of the individual's duty performed in the individual's position as described by Section 615.003 as a result of exposure to a risk:

(A) that is inherent in the duty; or

(B) to which the general public is not customarily exposed;

and

(2) the survivor is:

(A) the surviving spouse of the listed individual;

(B) a surviving [minor] child of the listed individual, if there is no surviving spouse; or

(C) a surviving [~~dependent~~] parent of the listed individual, if[~~:~~

~~(i) there is no surviving spouse or [minor] child];~~

and

~~[(ii) the parent was claimed as a dependent on the income tax return filed with the Internal Revenue Service by the listed individual in the year preceding the year in which the listed individual died;~~

~~[(D) a surviving dependent sibling of the listed individual and is younger than 18 years of age, if:~~

~~(i) there is no surviving spouse or minor child; and~~

~~(ii) the sibling was claimed as a dependent on the income tax return filed with the Internal Revenue Service by the listed individual in the year preceding the year in which the listed individual died;~~  
or

~~[(E) a surviving parent of the listed individual, if there is no surviving spouse, minor child, dependent parent eligible under Subdivision (2)(C), or dependent sibling eligible under Subdivision (2)(D)].~~

SECTION \_\_\_\_\_. Section 615.022, Government Code, is amended to read as follows:

Sec. 615.022. PAYMENT TO SURVIVORS [~~SURVIVING SPOUSE~~]. (a) If there is an eligible surviving spouse, the [The] state shall pay \$250,000 [~~\$50,000~~] to the [an] eligible surviving spouse.

(b) If there is no eligible surviving spouse, the state shall pay \$250,000 in equal shares to surviving children.

(c) If there is no eligible surviving spouse or child, the state shall pay \$250,000 in equal shares to surviving parents.

SECTION \_\_\_\_\_. Subchapter B, Chapter 615, Government Code, is amended by adding Section 615.0225 to read as follows:

Sec. 615.0225. EDUCATION BENEFITS FOR CERTAIN SURVIVORS. (a) A person is eligible to receive education benefits under this section if the person is:

(1) a surviving spouse; or

(2) a surviving child, if the child was claimed as a dependent on the income tax return filed with the Internal Revenue Service by the listed individual in the year preceding the year in which the listed individual died.

(b) An eligible person who enrolls as a full-time student at an institution of higher education as defined by Section 61.003, Education Code, is exempt from tuition and fees at that institution of higher education until the student receives a bachelor's degree or 200 hours of course credit, whichever occurs first.

(c) If the student elects to reside in housing provided by the institution of higher education and qualifies to reside in that housing, the institution shall pay from the general revenue appropriated to the institution the cost of the student's contract for food and housing until the student receives a bachelor's degree or 200 hours of course credit, whichever occurs first. If there is no space available in the institution's housing, the institution shall, from the general revenue appropriated to the institution, pay to the student each month the equivalent amount that the institution would have expended had the student lived in the institution's housing. The institution is not required to pay the student the monthly payment if the student would not qualify to live in the institution's housing.

(d) The institution of higher education shall, from the general revenue appropriated to the institution, pay to the student the cost of the student's textbooks until the student receives a bachelor's degree or 200 hours of course credit, whichever occurs first.

(e) A payment under this section is in addition to any payment made under Section 615.022.

SECTION \_\_\_\_\_. Section 615.042(c), Government Code, is amended to read as follows:

(c) Payments under this chapter on behalf of a surviving child [~~or dependent sibling~~] are payable beginning on the first day of the first month after the death of the individual listed in Section 615.003.

SECTION \_\_\_\_\_. Section 615.043, Government Code, is amended to read as follows:

Sec. 615.043. DENIAL OF CLAIM. If the board of trustees of the Employees Retirement System of Texas denies a claim, the board shall send a notice of the denial to:

- (1) the person making the claim; or
- (2) the duly qualified guardian or legal representative of a surviving minor child [~~or dependent sibling~~], if a claim is being made on behalf of the child [~~or sibling~~].

SECTION \_\_\_\_\_. Section 615.044(a), Government Code, is amended to read as follows:

(a) A person whose claim for payment to a surviving spouse, minor child, or dependent parent [~~or sibling~~] is denied or the person's legal representative may appeal the denial to a district court of the residence of the surviving spouse, minor child, or dependent parent [~~or sibling~~] or to a district court in Travis County.

SECTION \_\_\_\_\_. Sections 615.023, 615.024, and 615.025, Government Code, are repealed.

SECTION \_\_\_\_\_. (a) The changes in law made by this Act to Subchapters B and C, Chapter 615, Government Code, relating to the death of certain public servants apply only in relation to a death that occurs on or after September 1, 2000. Matters regarding eligibility, payment, and other benefits under Subchapter B, Chapter 615, Government Code, in relation to a death that occurs before September 1, 2000, are governed by the law in effect when the death occurs, and the former law is continued in effect for that purpose.

(b) Notwithstanding Subsection (a) of this section, the changes in law made by this Act relating to the entitlement of a dependent sibling to receive benefits under Chapter 615, Government Code, apply only beginning on the effective date of this Act, and matters regarding eligibility of a dependent sibling and benefits payable to a dependent sibling in relation to a death that occurs before the effective date of this Act are governed by the law in effect when the death occurs, and the former law is continued in effect for this purpose.

SECTION \_\_\_\_\_. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

### **HB 936 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 936**, A bill to be entitled An Act relating to the application of certain laws to local workforce development boards and to the application of certain conflict of interest requirements to the members of those boards.

On motion of Representative Solis, the house concurred in the senate amendments to **HB 936**.

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

Amend **HB 936** by striking SECTION 6 of the bill and renumbering the subsequent sections appropriately.

### **HB 1001 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1001**, A bill to be entitled An Act relating to the review of the reimbursement methodology for and resource needs of nursing facilities.

On motion of Representative Naishtat, the house concurred in the senate amendments to **HB 1001**.

#### **Senate Committee Substitute**

**CSHB 1001**, A bill to be entitled An Act relating to the review of the reimbursement methodology for and resource needs of nursing facilities.

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

SECTION 1. REVIEW OF REIMBURSEMENT RATES. (a) Subject to the availability of funds, the Health and Human Services Commission, in conjunction with the Texas Department of Human Services, shall evaluate the methodology used for determining Medicaid reimbursement rates for nursing facilities. The commission and department shall:

(1) consider including legitimate costs of doing business that are not currently included in the reimbursement rate; and

(2) explore methods to adjust the reimbursement rate to account for sudden increases in liability insurance rates and other costs of doing business.

(b) The Health and Human Services Commission, in conjunction with the Texas Department of Human Services, shall:

(1) evaluate the effectiveness of the Medicaid nursing facility reimbursement rate methodology to provide incentives for increased direct staffing;

(2) examine the possibility of adding incentives to Medicaid reimbursement rates for increased spending to improve the diet of residents and other increased spending to improve the quality of care and quality of life for residents;

(3) examine the possibility of developing a system of adjusted Medicaid reimbursement for nursing facilities that rewards a higher level of performance based on quality indicators;

(4) examine and consider adopting a means of mitigating recoupment from nursing homes that fail to meet the direct care spending requirements but provide a higher quality of care, based on indicators determined appropriate by the Health and Human Services Commission;

(5) examine any inadequacies of the current flat-rate system in accounting for regional and facility-specific differences in the cost of providing care and explore alternatives to the flat-rate system that better account for those differences; and

(6) examine all the current methodology components, including inflation factors and occupancy adjustments.

(c) In measuring the level of performance under Subsection (b)(3) of this section, the criteria that should be examined should include:

(1) a quality of care index that could include the factors listed under Section 242.403(a), Health and Safety Code;

(2) a customer satisfaction index;

(3) a resolved complaint index; and

(4) any other criteria the commission considers appropriate for examination.

**SECTION 2. REVIEW OF TILE CLASSIFICATION SYSTEM.** (a) Subject to the availability of funds, the Health and Human Services Commission, in conjunction with the Texas Department of Human Services, shall evaluate the Texas Index for Level of Effort classification system used to quantify the intensity of the care needs of individuals in nursing facilities and to assign daily reimbursement rates for that care to determine whether the system accurately accounts for the care needs of patients with dementia, including patients with Alzheimer's disease.

(b) In conducting the evaluation of the Texas Index for Level of Effort classification system, the Health and Human Services Commission shall seek the input of relevant professionals and other individuals or organizations with expertise in caring for people with dementia, including Alzheimer's disease.

**SECTION 3. REPORT TO LEGISLATURE.** The Health and Human Services Commission shall report the results of the evaluations conducted under this Act to the governor, the lieutenant governor, and the speaker of the house of representatives not later than September 1, 2002.

**SECTION 4. EFFECTIVE DATE.** This Act takes effect September 1, 2001.

**HB 1004 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1004**, A bill to be entitled An Act relating to the work or employment activities required under the temporary assistance for needy families program.

On motion of Representative Naishtat, the house concurred in the senate amendments to **HB 1004**.

**Senate Committee Substitute**

**CSHB 1004**, A bill to be entitled An Act relating to the work or employment activities required under the temporary assistance for needy families program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
SECTION 1. Subchapter D, Chapter 301, Labor Code, is amended by adding Section 301.0675 to read as follows:

Sec. 301.0675. WORK OR EMPLOYMENT ACTIVITIES FOR RECIPIENTS OF TEMPORARY ASSISTANCE FOR NEEDY FAMILIES. (a) The commission by rule shall determine the work or employment activities in which a person must participate to comply with Section 31.012, Human Resources Code.

(b) In adopting rules under this section, the commission shall provide for a broad array of permissible work or employment activities designed to:

(1) assist a person in entering the workforce and becoming self-supporting;

(2) address and remove barriers that prevent a person from entering the workforce and becoming self-supporting; and

(3) exercise all flexibility in permissible work or employment activities authorized by federal law.

(c) The rules must provide for at least the following permissible work or employment activities within federal limits:

(1) unsubsidized employment;

(2) subsidized private or public sector employment;

(3) work experience, including work associated with the refurbishing of publicly assisted housing;

(4) on-the-job training;

(5) job search and job readiness assistance, including activities designed to address and remove barriers to employment, such as counseling and other services relating to mental health, substance abuse, or family violence;

(6) participation in a community service program, including the VISTA program;

(7) participation in educational activities, including:

(A) attendance in an elementary, secondary, postsecondary, vocational, or technical school;

(B) attendance in a program leading to a high school equivalency certificate;



(C) attendance in an adult education or literacy program;  
and

(D) receipt of instruction in English as a second language;  
(8) training in job skills that are directly related to employment;  
(9) the provision of child-care services to a person participating in a community service program; and  
(10) another activity described by Section 31.0125, 31.0126, or 31.0135, Human Resources Code.

(d) The commission shall permit a person younger than 20 years of age to comply with Section 31.012, Human Resources Code, through participating solely in full-time educational activities authorized by Subsection (c)(7) for an unlimited amount of time.

(e) The commission, the Texas Department of Human Services, and the local workforce development boards shall perform agency and board duties related to requiring compliance with the work or employment activities requirements imposed by Section 31.012, Human Resources Code, in the least intrusive manner possible.

SECTION 2. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 3. This Act takes effect September 1, 2001, and applies to a person receiving financial assistance under Chapter 31, Human Resources Code, on or after that date, regardless of the date on which eligibility for financial assistance was determined.

### **HB 1006 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1006**, A bill to be entitled An Act relating to exemptions and exceptions from work or employment activity requirements under the temporary assistance for needy families program.

On motion of Representative Naishtat, the house concurred in the senate amendments to **HB 1006**.

#### **Senate Committee Substitute**

**CSHB 1006**, A bill to be entitled An Act relating to exemptions and exceptions from work or employment activity requirements under the temporary assistance for needy families program.

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

SECTION 1. Section 31.012, Human Resources Code, is amended to read as follows:

Sec. 31.012. MANDATORY WORK OR PARTICIPATION IN EMPLOYMENT ACTIVITIES THROUGH THE JOB OPPORTUNITIES AND BASIC SKILLS PROGRAM. (a) Except as otherwise provided by this section, the [The] department shall require that, during any one-month period in

which an adult is receiving financial assistance under this chapter, the adult shall during that period:

(1) work not less than 30 hours a week; or

(2) participate for not less than 20 hours a week in an activity established under the job opportunities and basic skills (JOBS) training program under Part F, Subchapter IV, Social Security Act (42 U.S.C. Section 682).

(b) For purposes of Subsection (a)(1), "work" includes self-employment activities.

(c) Subsection (a) does not apply to a person who:

(1) has reached full retirement age under the federal Social Security program;

(2) is the caretaker of a child or adult who has a permanent illness, physical disability, or mental disability lasting longer than 180 days and who requires the caretaker's substantial presence;

(3) is permanently disabled, or is incapacitated for longer than 180 days and is unable to work as confirmed by a physician's statement;

(4) is pregnant and cannot work as a result of the pregnancy; or

(5) is a single person who is the caretaker of a child under the age of one, provided that the child was not born after the person first became eligible for assistance.

(d) The department, the Texas Workforce Commission, and the local workforce development boards shall develop plans for providing outreach services to assist persons exempt under Subsections (c)(1)-(4) from the requirements of this section in becoming self-supporting. The plans must include procedures under which the department provides relevant information regarding the exempted persons, including contact information, to the commission and the local workforce development boards. The outreach services provided under the plans must include:

(1) making support services available, including workforce services provided by local workforce development boards; and

(2) providing referrals to other appropriate services, including services provided by the Texas Rehabilitation Commission, the Texas Commission on Alcohol and Drug Abuse, or community organizations.

(e) The department by rule shall establish criteria for good cause noncompliance and for notification procedures regarding participation in work or employment activities under this section.

(f) The Texas Workforce Commission and local workforce development boards shall work diligently with a person excepted for good cause from work or employment activities under Subsection (e) to remedy the circumstances that constitute good cause so that the person can become self-supporting.

~~(g) [(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 is not required to participate in a program under this section until the caretaker's youngest child at the time the caretaker first became eligible for assistance reaches the age of three. Effective September 1, 2000, 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 two. 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 Subsection (c)(2) or (5) [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.~~

~~(h) [(†)]~~ A state program operated under this section shall be administered by the division of workforce development of the Texas Workforce Commission when the program is transferred to that commission.

~~(i) [(‡)]~~ The department shall allow a person who is participating in work or employment activities under this section to complete those activities if the person becomes ineligible to receive financial assistance under this chapter because the person receives child support in an amount that makes the person ineligible for that assistance. The department shall provide to the person necessary child care services until the date on which the person completes work or employment activities under this section.

~~(j) [(§)]~~ 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 2. Section 31.0035(b), Human Resources Code, is amended to read as follows:

(b) Except as provided by Section 31.012(g) [~~31.012(e)~~], the department may provide the child-care services only until the earlier of:

(1) the end of the applicable period prescribed by Section 31.0065 for the provision of transitional benefits; or

(2) the first anniversary of the date on which the person becomes ineligible for financial assistance because of increased household income.

SECTION 3. Section 31.0065(d), Human Resources Code, is amended to read as follows:

(d) The computation of time limits under Subsection (b) begins when the adult or teen parent recipient receives notification under Section 31.012(e) [~~31.012(b)~~] of the availability of an opening in and eligibility for the job opportunity and basic skills (JOBS) program Part F, Subchapter IV, Social Security Act (42 U.S.C. Section 682).

SECTION 4. Section 32.0255(b), Human Resources Code, is amended to read as follows:

(b) Except as provided by Section 31.012(g) [~~31.012(e)~~], the state may provide the medical assistance only until the earlier of:

(1) the end of the applicable period prescribed by Section 31.0065 for the provision of transitional benefits; or

(2) the first anniversary of the date on which the person becomes ineligible for financial assistance because of increased household income.

SECTION 5. (a) Each local workforce development board shall:

(1) assess current resources available to provide services to each group of persons described by Sections 31.012(c)(1)-(4), Human Resources Code, as amended by this Act;

(2) develop a plan for providing services to each of those groups of persons to meet the needs of those persons and assist those persons in becoming self-sufficient; and

(3) not later than a date specified by the Texas Workforce Commission, provide the commission with:

(A) information regarding additional resources necessary to fully implement the plans developed under Subdivision (2) of this subsection; and

(B) policy recommendations regarding the provision of services to the persons addressed by those plans, such as alternate work activities, alternate program requirements, or modifications to the composition of local workforce development boards to ensure that the boards include persons with appropriate expertise regarding necessary services.

(b) Not later than December 1, 2003, the Texas Workforce Commission shall submit a report to the legislature that contains:

(1) the information and policy recommendations provided to the commission under Subsection (a)(3) of this section; and

(2) the commission's evaluation of that information and those policy recommendations.

SECTION 6. If before implementing any provision of this Act a state agency determines that a waiver or authorization from a federal agency is necessary for implementation of that provision, the agency affected by the provision shall request the waiver or authorization and may delay implementing that provision until the waiver or authorization is granted.

SECTION 7. This Act takes effect September 1, 2001, and applies to a person receiving financial assistance on or after that date, regardless of the date on which eligibility for financial assistance was determined.

### **Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **CSHB 1006** as follows:

(1) In SECTION 1 of the bill, strike added Sections 31.012(c)(1) and (2), Human Resources Code (Committee printing, page 1, lines 30-35), and substitute the following:

(1) is 60 years of age or older;

(2) is the caretaker of a child or adult who is ill or has a physical or mental disability and who requires the caretaker's presence;

(2) In SECTION 1 of the bill, in amended Section 31.012(e), Human Resources Code (Committee printing, page 1, line 62), after the period, insert the following:

In addition to any other criteria established by the department, the criteria for good cause noncompliance must provide for:

(1) an exception from work or employment activities under this section for a person who:

(A) is temporarily ill or incapacitated;

(B) is one parent in a two-parent family and the other parent is incarcerated;

(C) is required to appear in court;

(D) has a temporary medical condition related to pregnancy, if the condition arises after certification of the person for financial assistance;

(E) demonstrates to the department that transportation is unavailable or that arrangements for transportation have failed;

(F) demonstrates to the department that child care is unavailable or that arrangements for child care have failed;

(G) lacks other necessary support services and the department considers participation to be impossible without those services;

(H) receives an employment referral that results in an offer of employment that pays less than the minimum wage, except for work-related, on-the-job training activities identified by the department;

(I) demonstrates to the department that the only work or employment activity available to the person:

(i) requires a round-trip commuting time of more than two hours to and from the person's residence; or

(ii) cannot be reached by walking, and transportation is unavailable; or

(J) has a family crisis or other family circumstance, including family violence, that precludes participation; and

(2) a partial exception under which a caretaker of a child under the age of six who is not exempt under Subsection (c) and who personally provides care for that child is not required to work or participate in employment activities for more than 20 hours a week, provided that the caretaker is not:

(A) a custodial parent who has not completed high school or its equivalent; or

(B) a member of a two-parent household in which one parent is able to care for the child.

### **HB 1018 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1018**, A bill to be entitled An Act relating to the processing of certain applications submitted to the Texas State Board of Medical Examiners.

On motion of Representative Solis, the house concurred in the senate amendments to **HB 1018** by (Record 548): 134 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McReynolds;

Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Pickett; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; West.

Absent, Excused, Committee Meeting — Dunnam; Hardcastle; Olivo; Sadler; Smith.

Absent — Gutierrez; McClendon; Moreno, P.; Uher.

### **Senate Committee Substitute**

**CSHB 1018**, A bill to be entitled An Act relating to certain applications submitted to and reexaminations given by the Texas State Board of Medical Examiners.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS: SECTION 1. Subchapter C, Chapter 155, Occupations Code, is amended by adding Section 155.1025 to read as follows:

Sec. 155.1025. EXPEDITED PROCESS FOR CERTAIN APPLICANTS. The board shall adopt rules for expediting any application for a license under this subtitle made by a person who is licensed to practice medicine in another state or country and who submits an affidavit with the application that the applicant intends to practice in a rural community as determined by the Center for Rural Health Initiatives.

SECTION 2. Section 155.056, Occupations Code, is amended by adding Subsection (c) to read as follows:

(c) Notwithstanding Subsections (a) and (b), an applicant is considered to have satisfied the requirements of this section if the applicant:

(1) passed all but one part of an examination approved by the board within three attempts and passed the remaining part of the examination within six attempts;

(2) is specialty board certified by a specialty board that:

(A) is a member of the American Board of Medical Specialties; or

(B) is approved by the American Osteopathic Association;  
and

(3) completed in this state an additional three years of postgraduate medical training approved by the board.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

### **Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **CSHB 1018** by striking SECTION 2 of the bill (senate committee printing page 1, lines 22 through 37) and renumbering the SECTIONS of the bills accordingly.

**Senate Amendment No. 2 (Senate Floor Amendment No. 2)**

Amend **CSHB 1018** (senate committee printing) as follows:

(1) Strike SECTION 1 of the bill (page 1, lines 13 through 21) and substitute the following appropriately numbered section:

SECTION \_\_. Subchapter C, Chapter 155, Occupations Code, is amended by adding Section 155.1025 to read as follows:

Sec. 155.1025. EXPEDITED PROCESS FOR CERTAIN APPLICANTS. (a) The board shall adopt rules for expediting any application for a license under this subtitle made by a person who is licensed to practice medicine in another state or country and who submits an affidavit with the application stating that:

(1) the applicant intends to practice in a rural community, as determined by the Center for Rural Health Initiatives; or

(2) the applicant intends to:

(A) accept employment with an entity located in a medically underserved area or health professional shortage area, designated by the United States Department of Health and Human Services, and affiliated with or participating in a public university-sponsored graduate medical education program;

(B) serve on the faculty of the public university-sponsored graduate medical education program; and

(C) engage in the practice of medicine and teaching in a specialty field of medicine that is necessary to obtain or maintain the accreditation of the public university-sponsored graduate medical education program by the Accreditation Council for Graduate Medical Education.

(b) The board shall notify the Texas Department of Health on receipt of an application for expedited processing under Subsection (a)(2).

(2) Insert the following appropriately numbered section of the bill:

SECTION \_\_. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.947 to read as follows:

Sec. 51.947. IMMIGRATION VISA WAIVERS FOR FACULTY PHYSICIANS. (a) In this section, "eligible area" means the area served by the regional academic health center established under Section 74.611.

(b) On receipt of an application from a foreign applicant for the expedited processing of a license under Section 155.1025(a)(2), Occupations Code, the Texas Department of Health shall request the United States Department of State to recommend the waiver of 8 U.S.C. Section 1182(e) under exceptions provided by 8 U.S.C. Section 1184(l) for not more than 20 qualified alien physicians each year who agree, beginning not later than the 90th day after the date of approval of the waiver and continuing for at least three years, to:

(1) accept employment with an entity:

(A) located in a medically underserved area or health professional shortage area, as designated by the United States Department of Health and Human Services; and

(B) affiliated with or participating in a public university-sponsored graduate medical education program;

(2) serve on the faculty of the public university-sponsored graduate medical education program;

(3) engage in the practice of medicine and teaching in a specialty field of medicine that is necessary to obtain or maintain the accreditation of the public university-sponsored graduate medical education program by the Accreditation Council for Graduate Medical Education; and

(4) join a medical practice located in a medically underserved area or health professional shortage area, as designated by the United States Department of Health and Human services.

(3) Renumber the sections of the bill accordingly.

**HB 1022 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1022**, A bill to be entitled An Act relating to the recording of expenditures of revenue from the municipal hotel occupancy tax.

On motion of Representative McCall, the house concurred in the senate amendments to **HB 1022**.

**Senate Committee Substitute**

**CSHB 1022**, A bill relating to An Act relating to the recording of expenditures of revenue from the municipal hotel occupancy tax.

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

SECTION 1. Section 351.107, Tax Code, as added by Chapters 495 and 1467, Acts of the 76th Legislature, Regular Session, 1999, is renumbered as Section 351.108, Tax Code, and amended to read as follows:

Sec. 351.108 [~~351.107~~]. RECORDS. (a) A municipality shall maintain a record that accurately identifies the receipt and expenditure of all revenue derived from the tax imposed under this chapter.

(b) A municipality or entity that spends revenue derived from the tax imposed under this chapter shall, before making an expenditure, specify in a list each scheduled activity, program, or event that:

(1) is directly funded by the tax or has its administrative costs funded in whole or in part by the tax; and

(2) is directly enhancing and promoting tourism and the convention and hotel industry.

(c) If a municipality delegates to another entity the management or supervision of an activity or event funded by the tax imposed under this chapter, each entity that is ultimately funded by the tax shall, before making an expenditure, specify in a list each scheduled activity, program, or event that:

(1) is directly funded by the tax or has its administrative costs funded in whole or in part by the tax; and

(2) is directly enhancing and promoting tourism and the convention and hotel industry.

(d) The list required in Subsections (b) and (c) should be provided to the office of the city secretary or to the city secretary's designee.

(e) Subsections (b) and (c) do not prevent a municipality or funded entity from subsequently adding an activity, program, or event to the list



required by those subsections if the activity, program, or event is directly enhancing and promoting tourism and the convention and hotel industry.

(f) This section does not prevent a municipality or entity receiving revenue from the tax imposed under this chapter from setting aside tax revenue in a designated reserve fund for use in supporting planned activities, future events, and facility improvements that are directly enhancing and promoting tourism and the convention and hotel industry.

(g) Subsections (b) and (c) do not apply if the funded entity already provides written information to the municipality that indicates which scheduled activities, programs, or events offered by the entity are directly enhancing and promoting tourism and the convention and hotel industry.

(h) Subsections (b) and (c) do not affect the level of local hotel occupancy tax funding that was approved at an election held pursuant to the initiative and referendum provisions of a city charter, and do not prohibit the use of local hotel occupancy tax for the encouragement, promotion, improvement, and application of the arts or for historical restoration and preservation as otherwise provided by this chapter.

SECTION 2. (a) This Act takes effect September 1, 2001.

(b) Section 351.108, Tax Code, as amended by this Act, applies only to an expenditure or to a contract for hotel occupancy funding made on or after the effective date of this Act, without regard to whether the expenditure or contract for hotel occupancy tax funding from revenue collected under Chapter 351, Tax Code, before, on, or after that date.

(c) An expenditure or a contract for hotel occupancy tax funding made before the effective date of this Act is governed by the law applicable to the action immediately before the effective date of this Act, and that law is continued in effect for that purpose.

### **HB 1023 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative F. Brown called up with senate amendments for consideration at this time,

**HB 1023**, A bill to be entitled An Act relating to recreational sports fees charged at institutions in The Texas A&M University System.

On motion of Representative F. Brown, the house concurred in the senate amendments to **HB 1023**.

#### **Senate Committee Substitute**

**CSHB 1023**, A bill to be entitled An Act relating to recreational sports fees charged at institutions in The Texas A&M University System.

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

SECTION 1. Section 54.539, Education Code, is amended to read as follows:

Sec. 54.539. RECREATIONAL SPORTS FEE; THE TEXAS A&M UNIVERSITY SYSTEM. (a) If approved by student vote at an institution, the Board of Regents of The Texas A&M University System may charge students at such institutions within The Texas A&M University System a recreational

sports fee not to exceed \$100 [~~\$50~~] a semester or 12-week summer session or \$50 [~~\$25~~] a six-week summer session. The fee may be used only for financing, constructing, operating, maintaining, and improving new and existing recreational sports facilities and programs at the designated university.

(b) The recreational sports [~~recreation~~] fee may not be levied unless the levy of the fee has been approved by a majority vote of those students at the affected institution participating in a general student election called for that purpose.

(c) The fee authorized by this section may not be increased from one academic year to the next unless the increase has been approved by a majority vote of the students at the affected institution participating in a general election called for that purpose. The fee may not exceed the maximum amounts provided by Subsection (a).

(d) A fee may not be imposed under this section until the semester in which a campus recreational sports facility will be available for use.

(e) [~~(d)~~] Each university shall collect any student recreational sports fee imposed under this section and shall deposit the money collected in an account to be known as the student recreational sports account. A recreational sports fee may not be collected after the 20th anniversary of the date it is first collected or after all bonded indebtedness for any campus recreational sports facility for which the fee receipts are pledged is paid, whichever is later.

(f) [~~(e)~~] A student recreational sports fee imposed under this section is not counted in determining the maximum student services fee which may be charged under Section 54.513 of this subchapter.

(g) [~~(f)~~] The board may permit a person who is not enrolled at a system institution to use a facility paid for by student recreational sports fees if:

(1) the person's usage does not materially interfere with student demand or usage;

(2) the person is charged a fee that is not less than the student fee and is not less than the direct and indirect cost to the institution of providing for the person's usage; and

(3) the person's usage does not increase materially the potential liability of the institution.

(h) [~~(g)~~] The president of each institution in the system shall establish a formal system for student input with respect to matters of construction and operation of a facility or program financed by a student recreational sports fee.

SECTION 2. The change in law made by this Act applies only to fees imposed for a semester or term that begins on or after the effective date of this Act.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

#### **HB 1024 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

Representative F. Brown called up with senate amendments for consideration at this time,

**HB 1024**, A bill to be entitled An Act relating to student center complex fees charged at institutions in The Texas A&M University System.

On motion of Representative F. Brown, the house concurred in the senate amendments to **HB 1024** by (Record 549): 136 Yeas, 0 Nays, 3 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Pickett; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; West.

Absent, Excused, Committee Meeting — Dunnam; Hardcastle; Olivo; Sadler; Smith.

Absent — Moreno, P.

### STATEMENT OF VOTE

I was shown voting present, not voting on Record No. 549. I intended to vote yes.

McReynolds

### Senate Committee Substitute

**CSHB 1024**, A bill to be entitled An Act relating to student center complex fees charged at institutions in The Texas A&M University System.

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

SECTION 1. Section 54.521, Education Code, is amended by amending Subsections (a) and (d) and adding Subsections (e) and (f) to read as follows:

(a) The board of regents of The Texas A&M University System may levy a regular, fixed student fee on each student enrolled in an educational institution within The Texas A&M University System for the purpose of producing revenue for operating, maintaining, improving, and equipping the institution's student center complex and acquiring or constructing additions to the complex. The board may set fees in amounts it considers just and necessary but not to exceed \$100 [~~\$40~~] per student for each semester for the long

session and not to exceed \$50 [~~\$20~~] per student for each term of the summer session, or any fractional part of a session. The activities of the student center complex that may be financed in whole or in part by the student center complex fee are limited to those activities in which the entire student body is eligible to participate. The financed activities may not be held outside the territorial limits of any educational institution within The Texas A&M University System.

(d) The decision to levy a student center complex fee and [~~;~~] the amount of the initial fee [~~and an increase in the fee~~] must be approved by a majority vote of those students participating in a general election called for that purpose.

(e) The fee authorized by this section may not be increased from one academic year to the next unless the increase has been approved by a majority vote of the students at the affected institution participating in a general election called for that purpose. The fee may not exceed the maximum amounts provided by Subsection (a).

(f) The president of each institution in the system shall establish a formal system for soliciting and receiving student comment with respect to matters of construction and operation of a facility or program financed by a fee charged under this section.

SECTION 2. The change in law made by this Act applies only to fees imposed for a semester or term that begins on or after the effective date of this Act.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

### **HB 1050 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1050**, A bill to be entitled An Act relating to liens on real property in favor of governmental entities.

On motion of Representative Solomons, the house concurred in the senate amendments to **HB 1050**.

#### **Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 1050**, Senate Committee Report, in Section 4 of the bill, as follows:

(1) On page 1, line 58, strike "before."

(2) On page 1, lines 59 through 61, strike "In the case of such a lien that arose before the effective date of this Act, the lien must be recorded not later than December 31, 2002."

#### **Senate Amendment No. 2 (Senate Floor Amendment No. 2)**

Amend **HB 1050**, Senate Committee Report, as follows:

(1) In SECTION 1 of the bill, in added Subsection (c), Section 51.008, Property Code (page 1, line 28), strike "or".

(2) In SECTION 1 of the bill, at the end of added Subsection (c), Section 51.008, Property Code (page 1, line 29), strike the period and substitute "; or".

(3) In SECTION 1 of the bill, in added Subsection (c), Section 51.008, Property Code (page 1, between lines 29 and 30), insert the following:

(3) a lien established under Chapter 61 or 213, Labor Code.

### **HB 1096 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1096**, A bill to be entitled An Act relating to the creation of fire control, prevention, and emergency medical services districts by certain municipalities.

On motion of Representative Luna, the house concurred in the senate amendments to **HB 1096** by (Record 550): 130 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Hilderbran; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Najera; Nixon; Oliveira; Pickett; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wohlgenuth; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; West.

Absent, Excused, Committee Meeting — Dunnam; Hardcastle; Olivo; Sadler; Smith.

Absent — Crabb; Ehrhardt; Heflin; Hill; Madden; Moreno, P.; Naishtat; Noriega.

### **STATEMENT OF VOTE**

I was shown voting yes on Record No. 550. I intended to vote no.

Hilderbran

**Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 1096** as follows:

(1) On page 2, line 2, after "nor more than 550,000" insert ", or a municipality with a population of more than 1.9 million.".

(2) On page 3, line 7, add a new Subsection (g) to Section 344.051, Local Government Code, to read as follows:

(g) If the voters in a municipality with the population of more than 1.9 million create a fire control, prevention and EMS district under this chapter, the fire department shall comply with the minimum standards established by the National Fire Protection Association or its successor in function regarding fire protection personnel operating at emergency incidents.

(3) On page 3, after line 22, add a new Subsection (e) to Section 344.052, Local Government Code, to read as follows:

(d) The term "governing body" in this section means the mayor if the municipality creating the district has a population of 1.9 million or more.

(4) On page 6, line 12, in Section 344.060, Local Government Code, after the word "body" insert "or mayor, as appropriate.".

**Senate Amendment No. 2 (Senate Floor Amendment No. 2)**

Amend Senate Committee Report **HB 1096** as follows:

(1) On page 2, line 48, after "law" strike all text through the end of the sentence on page 2, line 52, and substitute the following: "and is included in computing a combined sales and use tax rate for purposes of any limitation provided by law on the maximum combined sales and use tax rate of political subdivisions".

**HB 1107 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1107**, A bill to be entitled An Act relating to the use of money in the county law library fund.

On motion of Representative Hartnett, the house concurred in the senate amendments to **HB 1107**.

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

Amend **HB 1107** by striking "in a county with 30 or more district courts," on page 1, line 18 of the bill (House Engrossed Version).

**Senate Amendment No. 2 (Senate Floor Amendment No. 1)**

Amend **HB 1107** (Senate Committee Printing) as follows:

(1) In the recitation to SECTION 1 of the bill (page 1, lines 16 through 18), strike all after "adding" and substitute "new Subsections (c) and (d) and relettering existing Subsection (c) as Subsection (e) to read as follows:".

(2) In SECTION 1 of the bill, proposed Subsection (c), Section 323.023, Local Government Code (page 1, line 34), between "(c)" and "Expenditures" insert the following:

Money in the fund may be used for the purposes described by Subsection (b)(3) only if the county's law librarian or, if the county has no law librarian, the person responsible for the county's law library, authorizes the use in consultation with the county auditor.

(d)

(3) In SECTION 1 of the bill, proposed Subsection (d), Section 323.023, Local Government Code (page 1, line 39), strike "(d)" and substitute "(e)".

### **HB 1117 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1117**, A bill to be entitled An Act relating to petition requirements for an application for a place on the general primary election ballot for certain judicial candidates.

On motion of Representative Goodman, the house concurred in the senate amendments to **HB 1117**.

#### **Senate Committee Substitute**

**CSHB 1117**, A bill to be entitled An Act relating to petition requirements for an application for a place on the general primary election ballot for certain judicial candidates.

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

SECTION 1. Section 172.021, Election Code, is amended by adding Subsection (g) to read as follows:

(g) A candidate for the office of chief justice or justice, supreme court or presiding judge or judge, court of criminal appeals who chooses to pay the filing fee must also accompany the application with a petition that complies with the requirements prescribed for the petition authorized by Subsection (b), except that the minimum number of signatures that must appear on the petition required by this subsection is 100 each from five state senatorial districts.

SECTION 2. This Act takes effect September 1, 2001.

### **HB 1118 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1118**, A bill to be entitled An Act relating to the adjudication and disposition of juvenile conduct and the administration of the juvenile justice system.

On motion of Representative Goodman, the house concurred in the senate amendments to **HB 1118**.

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

Amend **HB 1118** as follows:

SUBCHAPTER D. LOCAL JUVENILE JUSTICE INFORMATION SYSTEMSec. 58.301. DEFINITIONS. In this subchapter:

(1) "County juvenile board" means a juvenile board created under Chapter 152, Human Resources Code.

(2) "Governmental placement facility" means a juvenile residential placement facility operated by a unit of government.

(3) "Governmental service provider" means a juvenile justice service provider operated by a unit of government.

(4) "Local juvenile justice information system" means a county or multi-county computerized database of information concerning children, with data entry and access by the partner agencies that are members of the system.

(5) "Partner agency" means a governmental service provider or governmental placement facility that is required by this subchapter to be a member of a local juvenile justice information system or that has applied to be a member of a local juvenile justice information system and has been approved by the county juvenile board or regional juvenile board committee as a member of the system.

(6) "Regional juvenile board committee" means a committee that is composed of two members from each county juvenile board in a region that comprises a multi-county local juvenile information system.

Sec. 58.302. PURPOSES OF SYSTEM. The purposes of a local juvenile justice information system are to:

(1) provide accurate information at the county or regional level relating to children who come into contact with the juvenile justice system;

(2) assist in the development and delivery of services to children in the juvenile justice system;

(3) assist in the development and delivery of services to children:

(A) who school officials have reasonable cause to believe have committed an offense for which a report is required under Section 37.015, Education Code; or

(B) who have been expelled, the expulsion of which school officials are required to report under Section 52.041;

(4) provide for an efficient transmission of juvenile records from justice and municipal courts to county juvenile probation departments and the juvenile court and from county juvenile probation departments and juvenile court to the state juvenile justice information system created by Subchapter B;

(5) provide efficient computerized case management resources to juvenile courts, county juvenile probation departments, and partner agencies authorized by this subchapter;

(6) provide a directory of services available to children to the partner agencies to facilitate the delivery of services to children;

(7) provide an efficient means for municipal and justice courts to report filing of charges, adjudications, and dispositions of juveniles to the juvenile court as required by Section 51.08; and

(8) provide a method for agencies to fulfill their duties under Section 58.108, including the electronic transmission of information required to be sent to the Department of Public Safety by Section 58.110(f).

Sec. 58.303. LOCAL JUVENILE JUSTICE INFORMATION SYSTEM. (a)



Juvenile justice agencies in a county or region of this state may jointly create and maintain a local juvenile justice information system to aid in processing the cases of children under this code, to facilitate the delivery of services to children in the juvenile justice system, and to aid in the early identification of at-risk and delinquent children.

(b) A local juvenile justice information system must contain the following components:

(1) case management resources for juvenile courts, prosecuting attorneys, and county juvenile probation departments;

(2) reporting systems to fulfill statutory requirements for reporting in the juvenile justice system;

(3) service provider directories and indexes of agencies providing services to children; and

(4) victim-witness notices required under Chapter 57.

(c) A local juvenile justice information system may contain the following components:

(1) electronic filing of complaints or petitions;

(2) electronic offense and intake processing;

(3) case docket management and calendaring;

(4) communications by email or other electronic communications between partner agencies;

(5) reporting of charges filed, adjudications and dispositions of juveniles by municipal and justice courts and the juvenile court, and transfers of cases to the juvenile court as authorized or required by Section 51.08;

(6) reporting to schools under Article 15.27, Code of Criminal Procedure, by law enforcement agencies, prosecuting attorneys, and juvenile courts;

(7) records of adjudications and dispositions, including probation conditions ordered by the juvenile court; and

(8) warrant management and confirmation capabilities.

(d) Membership in a local juvenile justice information system is determined by this subchapter. Membership in a regional juvenile justice information system is determined by the regional juvenile board committee from among partner agencies that have applied for membership.

Sec. 58.304. TYPES OF INFORMATION CONTAINED IN A LOCAL JUVENILE INFORMATION SYSTEM. (a) Subject to Subsection (d), a local juvenile justice information system must consist of:

(1) information relating to all referrals to the juvenile court of any type, including referrals for conduct indicating a need for supervision and delinquent conduct; and

(2) information relating to:

(A) the juvenile;

(B) the intake or referral of the juvenile into the juvenile justice system for any offense or conduct;

(C) the detention of the juvenile;

(D) the prosecution of the juvenile;

(E) the disposition of the juvenile's case, including the name and description of any program to which the juvenile is referred; and

(F) the probation, placement, or commitment of the juvenile.

(b) To the extent possible and subject to Subsections (a) and (d), the local juvenile justice information system may include the following information for each juvenile taken into custody, detained, or referred under this title:

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

(2) the juvenile's date and place of birth;

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

(4) the juvenile's state identification number and other identifying information;

(5) the juvenile's fingerprints and photograph;

(6) the juvenile's last known residential address, including the census tract number designation for the address;

(7) the name, address, and phone number of the juvenile's parent, guardian, or custodian;

(8) the name and identifying number of the agency that took into custody or detained the juvenile;

(9) each date of custody or detention;

(10) a detailed description of the conduct for which the juvenile was taken into custody, detained, or referred, including the level and degree of the alleged offense;

(11) the name and identifying number of the juvenile intake agency or juvenile probation office;

(12) each disposition by the juvenile intake agency or juvenile probation office;

(13) the date of disposition by the juvenile intake agency or juvenile probation office;

(14) the name and identifying number of the prosecutor's office;

(15) each disposition by the prosecutor;

(16) the date of disposition by the prosecutor;

(17) the name and identifying number of the court;

(18) each disposition by the court, including information concerning custody of a juvenile by a juvenile justice agency or county juvenile probation department;

(19) the date of disposition by the court;

(20) any commitment or release under supervision by the Texas Youth Commission, including the date of the commitment or release; and

(21) information concerning each appellate proceeding.

(c) If the Department of Public Safety assigns a state identification number for the juvenile, the identification number shall be entered in the local juvenile information system.

(d) Information obtained for the purpose of diagnosis, examination, evaluation, or treatment or for making a referral for treatment of a child by a public or private agency or institution providing supervision of a child by arrangement of the juvenile court or having custody of the child under order of the juvenile court may not be collected under Subsection (a) or (b).

Sec. 58.305. PARTNER AGENCIES. (a) A local juvenile justice information system for a single county shall include the following partner agencies within that county:

- (1) the juvenile court;
- (2) justice of the peace and municipal courts;
- (3) the county juvenile probation department;
- (4) the prosecuting attorneys who prosecute juvenile cases in juvenile court, municipal court, or justice court;
- (5) law enforcement agencies;
- (6) each public school district in the county;
- (7) governmental service providers approved by the county juvenile board; and
- (8) governmental placement facilities approved by the county juvenile board.

(b) A local juvenile justice information system for a multi-county region shall include the partner agencies listed in Subsections (a)(1)-(6) for each county in the region and the following partner agencies from within the multi-county region that have applied for membership in the system and have been approved by the regional juvenile board committee:

- (1) governmental service providers; and
- (2) governmental placement facilities.

Sec. 58.306. ACCESS TO INFORMATION; LEVELS. (a) This section describes the level of access to information to which each partner agency in a local juvenile justice information system is entitled.

(b) Information is at Access Level 1 if the information relates to a child:

(1) who:

(A) school official has reasonable grounds to believe has committed an offense for which a report is required under Section 37.015, Education Code; or

(B) has been expelled, the expulsion of which is required to be reported under Section 52.041; and

(2) who has not been charged with a fineable only offense, a status offense, or delinquent conduct.

(c) Information is at Access Level 2 if the information relates to a child who:

(1) is alleged in a justice or municipal court to have committed a fineable only offense, municipal ordinance violation, or status offense; and

(2) has not been charged with delinquent conduct or conduct indicating a need for supervision.

(d) Information is at Access Level 3 if the information relates to a child who is alleged to have engaged in delinquent conduct or conduct indicating a need for supervision.

(e) Level 1 Access is by public school districts in the county or region served by the local juvenile justice information system.

(f) Level 2 Access is by:

(1) justice of the peace courts that process juvenile cases; and

(2) municipal courts that process juvenile cases.

(g) Level 3 Access is by:

- (1) the juvenile court;
- (2) the prosecuting attorney;
- (3) the county juvenile probation department;
- (4) law enforcement agencies;
- (5) governmental service providers that are partner agencies; and
- (6) governmental placement facilities that are partner agencies.

(h) Access for Level 1 agencies is only to information at Level 1. Access for Level 2 agencies is only to information at Levels 1 and 2. Access for Level 3 agencies is to information at Levels 1, 2, and 3.

Sec. 58.307. CONFIDENTIALITY OF INFORMATION. (a) Information that is part of a local juvenile justice system is not public information and may not be released to the public, except as authorized by law.

(b) Information that is part of a local juvenile justice information system is for the professional use of the partner agencies that are members of the system and may be used only by authorized employees of those agencies to discharge duties of those agencies.

(c) Information from a local juvenile justice information system may not be disclosed to persons, agencies, or organizations that are not members of the system except to the extent disclosure is authorized or mandated by this title.

(d) Information in a local juvenile justice information system is subject to destruction, sealing, or restricted access as provided by this title.

(e) Information in a local juvenile justice information system shall be protected from unauthorized access by a system of access security and any access to information in a local juvenile information system performed by browser software shall be at the level of at least 128-bit encryption. A juvenile board or a regional juvenile board committee shall require all partner agencies to maintain security and restrict access in accordance with the requirements of this Title.

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

Amend **HB 1118** as follows:

(1) In the recital to SECTION 57 of the bill (House Engrossment, page 65, lines 17-18), strike "Section 141.042(e), Human Resources Code, is amended" and substitute "Section 141.042, Human Resources Code, is amended by amending Subsection (e) and adding Subsection (g)".

(2) Between SECTIONS 57 and 58 of the bill (House Engrossment, page 66, between lines 10 and 11), insert the following new Section 141.042(g), Human Resources Code:

(g) Any statement made by a child and any mental health data obtained from the child during the administration of the mental health screening instrument under this section is not admissible against the child at any other hearing. The person administering the mental health screening instrument shall inform the child that any statement made by the child and any mental health data obtained from the child during the administration of the instrument is not admissible against the child at any other hearing.

### **Senate Amendment No. 3 (Senate Committee Amendment No. 3)**

Amend **HB 1118** in SECTION 49 of the bill, in the second sentence of added Article 45.0216(c), Code of Criminal Procedure (House Engrossment, page 57, line 1), by striking "is not required to" and substituting "must".

**Senate Amendment No. 4 (Senate Floor Amendment No. 1)**

Amend **HB 1118** by adding an appropriately numbered SECTION to read as follows:

SECTION \_\_\_\_\_. (a) The Prairie View A&M University Center for the Study and Prevention of Juvenile Crime and Delinquency shall study the relationship of the juvenile justice system to special categories of juveniles, including:

- (1) minorities,
- (2) female offenders, and
- (3) sex offenders.

(b) The Center shall cooperate with the Criminal Justice Policy Council, the Texas Juvenile Probation Commission and the Texas Youth Commission in conducting those studies.

(c) The Center shall report its findings and recommendations to the lieutenant governor, the speaker of the house of representatives, and the governor by December 1, 2002.

**Senate Amendment No. 5 (Senate Floor Amendment No. 2)**

Amend **HB 1118** by adding the following new SECTION, to be numbered appropriately, to read as follows and renumbering subsequent SECTIONS appropriately:

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

(a) Except as provided by Subsection (e), the prosecuting attorney may refer the petition to the grand jury of the county in which the court in which the petition is filed presides if the petition alleges that the child engaged in delinquent conduct that constitutes habitual felony conduct as described by Section 51.031 or that included the violation of any of the following provisions:

- (1) Section 19.02, Penal Code (murder);
- (2) Section 19.03, Penal Code (capital murder);
- (3) Section 19.04, Penal Code (manslaughter);
- (4) Section 20.04, Penal Code (aggravated kidnapping);
- (5) [~~4~~] Section 22.011, Penal Code (sexual assault) or Section 22.021, Penal Code (aggravated sexual assault);
- (6) [~~5~~] Section 22.02, Penal Code (aggravated assault);
- (7) [~~6~~] Section 29.03, Penal Code (aggravated robbery);
- (8) [~~7~~] Section 22.04, Penal Code (injury to a child, elderly individual, or disabled individual), if the offense is punishable as a felony, other than a state jail felony;
- (9) [~~8~~] Section 22.05(b), Penal Code (felony deadly conduct involving discharging a firearm);
- (10) [~~9~~] Subchapter D, Chapter 481, Health and Safety Code, if the conduct constitutes a felony of the first degree or an aggravated controlled substance felony (certain offenses involving controlled substances);
- (11) [~~10~~] Section 15.03, Penal Code (criminal solicitation);
- (12) [~~11~~] Section 21.11(a)(1), Penal Code (indecent with a child);

(13) [(12)] Section 15.031, Penal Code (criminal solicitation of a minor);

(14) [(13)] Section 15.01, Penal Code (criminal attempt), if the offense attempted was an offense under Section 19.02, Penal Code (murder), or Section 19.03, Penal Code (capital murder), or an offense listed by Section 3g(a)(1), Article 42.12, Code of Criminal Procedure; [or]

(15) [(14)] Section 28.02, Penal Code (arson), if bodily injury or death is suffered by any person by reason of the commission of the conduct; or

(16) Section 49.08, Penal Code (intoxication manslaughter).

**HB 1121 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1121**, A bill to be entitled An Act relating to eligibility for enrollment in certain law enforcement training programs.

On motion of Representative B. Turner, the house concurred in the senate amendments to **HB 1121**.

**Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 1121** by inserting the following appropriately numbered section and renumbering subsequent sections accordingly:

SECTION \_\_\_\_\_. The Commission on Law Enforcement Officer Standards and Education may not adopt a rule, or implement a previously adopted rule, that requires a person who enrolls in a training program to have an associates degree before or after enrollment in a training program under Section 1701.251 to be eligible for a license under Chapter 1701. This section expires September 1, 2003.

**HB 1127 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1127**, A bill to be entitled An Act relating to procedures governing employment contracts for faculty members at public institutions of higher education.

On motion of Representative Uher, the house concurred in the senate amendments to **HB 1127**.

**Senate Committee Substitute**

**CSHB 1127**, A bill to be entitled An Act relating to procedures governing employment contracts for faculty members at public institutions of higher education.

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

SECTION 1. Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.943 to read as follows:

Sec. 51.943. RENEWAL OF FACULTY EMPLOYMENT CONTRACTS.

(a) In this section:

(1) "Contract" means an agreement between an institution of higher education or its authorized agent and a faculty member that establishes the terms of the faculty member's employment, including the faculty member's responsibilities and salary, for an academic year.

(2) "Faculty member" means a person who is employed full time by an institution of higher education as a member of the faculty whose primary duties include teaching or research. The term does not include:

(A) a person employed in the classified personnel system of the institution or a person employed in a similar type of position if the institution does not have a classified personnel system;

(B) a person who holds faculty rank but who spends a majority of the person's time for the institution engaged in managerial or supervisory activities, including a chancellor, vice chancellor, president, vice president, provost, associate or assistant provost, dean, or associate or assistant dean.

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

(b) Except as provided in subsection (c), an institution of higher education that determines it is in its best interest to reappoint a faculty member for the next academic year shall offer the faculty member a written contract for that academic year not later than 30 days before the first day of the academic year.

(c) For the purposes of this section, an institution of higher education is not required to provide an annual contract to tenure or tenure-track faculty, but must provide tenure and tenure-track faculty with any written notification required in the institution's tenure policy of a change in a term of employment according to the policies of the institution, but no later than the 30th day prior to the change.

(d) If the institution of higher education is unable to comply with Subsection (b), the institution shall:

(1) provide the faculty member with written notification that the institution is unable to comply with Subsection (b);

(2) include in the written notification reasons for its inability to comply with Subsection (b); and

(3) specify in the written notification a time by which it will offer a written contract to the faculty member for the applicable academic year.

(e) If the institution does not offer the faculty member a written contract before the 61st day after the first day of the academic year and the institution retains the faculty member for that academic year without a written contract, the institution must retain the faculty member for that academic year under terms and conditions, including terms governing the faculty member's compensation, that are at least as favorable to the faculty member's employment for the preceding academic year, unless the institution and the faculty member subsequently enter into a different written contract.

(f) This section does not prohibit an institution of higher education from entering into a contract with a faculty member for a period longer than an academic year.

(g) Nothing in this section shall be deemed to provide a faculty member who does not hold tenure additional rights, privileges or remedies or to provide an expectation of continued employment beyond the period of a faculty member's current contract.

SECTION 2. This Act takes effect January 1, 2002, and applies only to a contract for an academic year that begins after that date.

### **HB 1138 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1138**, A bill to be entitled An Act relating to the form of a proposal guaranty for a contract of the Texas Department of Transportation.

On motion of Representative Longoria, the house concurred in the senate amendments to **HB 1138**.

#### **Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend the Committee Report for **HB 1138** on page 1, line 19 by inserting after "state" and before the period new language to read as follows:

; or

(3) any other method determined to be suitable by the department.

### **HB 1144 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1144**, A bill to be entitled An Act relating to public school accountability and to measures to improve proficiency in certain subjects.

Representative Grusendorf moved that the house concur in the senate amendments to **HB 1144**.

Representative S. Turner offered a substitute motion that the house not concur and that a conference committee be requested to adjust the differences between the two houses on the bill.

Representative Grusendorf moved to table the substitute motion.

A record vote was requested.

The motion to table prevailed by (Record 551): 86 Yeas, 46 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berman; Bonnen; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Carter; Chavez; Christian; Clark; Cook; Corte; Crabb; Craddick; Crownover; Davis, J.; Delisi; Denny; Driver; Eiland; Elkins; Ellis; Farabee; Garcia; George; Goodman; Goolsby; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hilderbran; Hill; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Keel; Keffer; King, P.; Kolkhorst; Krusee; Kuempel; Lewis, R.; Longoria; Madden; Marchant; McCall; Merritt; Miller; Morrison; Mowery; Najera; Nixon; Noriega; Oliveira; Pickett; Pitts; Puente; Reyna, E.; Shields; Smithee; Solis; Solomons; Talton; Truitt; Turner, B.; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley.



Nays — Bailey; Bosse; Capelo; Chisum; Coleman; Counts; Davis, Y.; Deshotel; Dukes; Dutton; Edwards; Ehrhardt; Farrar; Geren; Giddings; Glaze; Hinojosa; Hochberg; Hodge; Jones, J.; King, T.; Kitchen; Lewis, G.; Luna; Martinez Fischer; Maxey; McClendon; McReynolds; Menendez; Moreno, J.; Naishtat; Ramsay; Raymond; Reyna, A.; Ritter; Swinford; Telford; Thompson; Tillery; Turner, S.; Uher; Uresti; Villarreal; Walker; Yarbrough; Zbrank.

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

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; West.

Absent, Excused, Committee Meeting — Dunnam; Hardcastle; Olivo; Sadler; Smith.

Absent — Danburg; Flores; Gray; Moreno, P.; Salinas; Seaman.

The motion to concur in the senate amendments to **HB 1144** prevailed. (Uher and Walker recorded voting no)

### Senate Committee Substitute

**CSHB 1144**, A bill to be entitled An Act relating to public school accountability and to measures to improve proficiency in certain subjects.

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

SECTION 1. Subchapter A, Chapter 7, Education Code, is amended by adding Section 7.006 to read as follows:

Sec. 7.006. COORDINATION OF RECORDS. The commissioner of education and the commissioner of higher education shall ensure that records relating to student performance held by the Texas Education Agency and the Texas Higher Education Coordinating Board are coordinated and maintained in standardized, compatible formats that permit:

(1) the exchange of information between the agencies; and  
(2) the matching of individual student records so that a student's academic performance may be assessed throughout the student's educational career.

SECTION 2. Subchapter C, Chapter 7, Education Code, is amended by adding Sections 7.058 and 7.059 to read as follows:

Sec. 7.058. RESEARCH ON MATHEMATICS SKILLS ACQUISITION AND PROGRAM EFFECTIVENESS. From funds appropriated for the purpose, the commissioner shall award to one or more institutions that have demonstrated an ability to conduct science-based research on effective instructional strategies that improve student performance in mathematics a grant to be used to:

(1) develop and identify research on mathematics skills acquisition and student learning in mathematics;

(2) monitor the effectiveness of professional development institutes under Section 21.455 based on performance in mathematics by the students of teachers who have attended an institute;

(3) examine the effect of professional development institutes on the classroom performance of teachers who have attended an institute;

(4) identify common practices used at high-performing school campuses that lead to improved student performance in mathematics; and

(5) develop research on cognitive development in children concerning mathematics skills development.

Sec. 7.059. MATHEMATICS HOMEWORK AND GRADING SERVICE. (a) From funds appropriated for the purpose, the commissioner shall develop and make available a service that assists teachers in providing and grading mathematics homework assignments. The service may also assist teachers in providing and grading student examinations.

(b) In making the service described by Subsection (a) available, the commissioner shall consider all methods available through advanced technology, especially methods using the Internet, to distribute mathematics homework assignments and to provide immediate assessment of a student's work on the assignment.

(c) Each homework assignment developed for the service:

(1) must be created with consideration for the underlying mathematical skills required to be taught at the grade level for which the assignment is designed;

(2) must be based on a step-by-step procedure for solving mathematical problems provided by the assignment that may be adapted to individual student and instructor needs;

(3) must be accompanied by a solution to each mathematical problem assigned; and

(4) may be accompanied by other pedagogically valuable material appropriate for a particular student.

SECTION 3. Subchapter B, Chapter 21, Education Code, is amended by adding Section 21.0482 to read as follows:

Sec. 21.0482. MASTER MATHEMATICS TEACHER CERTIFICATION.

(a) To ensure that there are teachers with special training to work with other teachers and with students in order to improve student mathematics performance, the board shall establish:

(1) a master mathematics teacher certificate to teach mathematics at elementary school grade levels;

(2) a master mathematics teacher certificate to teach mathematics at middle school grade levels; and

(3) a master mathematics teacher certificate to teach mathematics at high school grade levels.

(b) The board shall issue the appropriate master mathematics teacher certificate to each eligible person.

(c) To be eligible for a master mathematics teacher certificate, a person must:

(1) hold a teaching certificate issued under this subchapter;

(2) have at least three years of teaching experience;

(3) satisfactorily complete a knowledge-based course of instruction on the science of teaching children mathematics that includes training in mathematics instruction and professional peer mentoring techniques that, through scientific testing, have been proven effective;

(4) perform satisfactorily on the appropriate master mathematics teacher certification examination prescribed by the board; and

(5) satisfy any other requirements prescribed by the board.

(d) The course of instruction prescribed under Subsection (c)(3) shall be developed by the board in consultation with mathematics and science faculty members at institutions of higher education.

SECTION 4. Subchapter I, Chapter 21, Education Code, is amended by adding Section 21.411 to read as follows:

Sec. 21.411. MASTER MATHEMATICS TEACHER GRANT PROGRAM.

(a) The commissioner shall establish a master mathematics teacher grant program to encourage teachers to:

(1) become certified as master mathematics teachers; and

(2) work with other teachers and with students in order to improve student mathematics performance.

(b) From funds appropriated for the purpose, the commissioner shall make grants to school districts as provided by this section to pay stipends to selected certified master mathematics teachers who teach at high-need campuses.

(c) The commissioner shall annually identify each high-need campus in a school district using criteria established by the commissioner by rule, including performance on the mathematics assessment instrument administered under Section 39.023. The commissioner shall also use the criteria to rank campuses in order of greatest need.

(d) A school district may apply to the commissioner for grants for each high-need campus identified by the commissioner to be used to pay stipends to certified master mathematics teachers in accordance with this section. Unless reduced under Subsection (g) or (i), each grant is in the amount of \$5,000. The commissioner shall approve the application if the district:

(1) applies within the period and in the manner required by rule adopted by the commissioner; and

(2) agrees to use each grant only for the purpose of paying a year-end stipend to a master mathematics teacher:

(A) who holds the appropriate certificate issued under Section 21.0482;

(B) who teaches in a position prescribed by the district at a high-need campus identified by the commissioner;

(C) whose primary duties include:

(i) teaching mathematics; and

(ii) serving as a mathematics teaching mentor to other teachers for the amount of time and in the manner established by the district and by rule adopted by the commissioner; and

(D) who satisfies any other requirements established by rule adopted by the commissioner.

(e) Unless reduced under Subsection (g) or (i), a stipend under Subsection (d)(2) is in the amount of \$5,000.

(f) The commissioner shall adopt rules for the distribution of grants to school districts following the year of the initial grant. A district that has been approved for a grant to pay a stipend to a certified master mathematics teacher is not required to reapply for a grant for two consecutive school years following the year of the initial grant if the district:

(1) continues to pay a stipend as provided by Subsection (g); and

(2) notifies the commissioner in writing, within the period and in the manner prescribed by the commissioner, that the circumstances on which the grant was based have not changed.

(g) The commissioner shall reduce payments to a school district proportionately to the extent a teacher does not meet the requirements under

Subsection (d)(2) for the entire school year. A district that employs more certified master mathematics teachers than the number of grants available under this section shall select the certified master mathematics teachers to whom to pay stipends based on a policy adopted by the board of trustees of the district, except that a district shall pay a stipend for two additional consecutive school years to a teacher the district has selected for and paid a stipend for a school year, who remains eligible for a stipend under Subsection (d)(2), and for whom the district receives a grant under this section for those years. A decision of the district under this subsection is final and may not be appealed. The district may not apportion among teachers a stipend paid for with a grant the district receives under this section. The district may use local money to pay additional stipends in amounts determined by the district.

(h) A grant a school district receives under this section is in addition to any funding the district receives under Chapter 42. The commissioner shall distribute funds under this section with the Foundation School Program payment to which the district is entitled as soon as practicable after the end of the school year as determined by the commissioner. A district to which Chapter 41 applies is entitled to the grants paid under this section. The commissioner shall determine the timing of the distribution of grants to a district that does not receive Foundation School Program payments.

(i) This section does not create a property right to a grant or stipend. A school district is entitled to a grant to carry out the purposes of this section only to the extent the commissioner makes the grant in accordance with this section and only to the extent sufficient state funds are appropriated for those purposes. If state funds are appropriated but are insufficient to fully fund a grant, the commissioner shall reduce the grant paid to each district and the district shall reduce the stipend the district pays to each teacher under this section proportionately so that each selected teacher receives the same amount of money.

(j) A decision of the commissioner concerning the amount of money to which a school district is entitled under this section is final and may not be appealed. Each district shall, in the manner and at the time prescribed by the commissioner, provide to the commissioner proof acceptable to the commissioner of the master mathematics teacher certification of a teacher to whom the district is paying a stipend under this section.

(k) The commissioner may audit the expenditure of money appropriated for purposes of this section. A district's use of the money appropriated for purposes of this section shall be verified as part of the district audit under Section 44.008.

(l) A stipend a teacher receives under this section is not considered in determining whether the district is paying the teacher the minimum monthly salary under Section 21.402.

(m) The commissioner may adopt other rules as necessary to implement this section.

SECTION 5. Subchapter J, Chapter 21, Education Code, is amended by adding Sections 21.454 and 21.455 to read as follows:

Sec. 21.454. MATHEMATICS TRAINING. (a) The commissioner shall develop training materials and other teacher training resources for a school district to use in assisting mathematics teachers in developing:

(1) expertise in the appropriate mathematics curriculum; and  
(2) comprehension of the instructional approaches that, through scientific testing, have been proven effective in improving student mathematics skills.

(b) The commissioner shall develop materials and resources under this section in consultation with appropriate faculty members at institutions of higher education.

(c) The commissioner shall make the training materials and other teacher training resources required under Subsection (a) available to mathematics teachers through a variety of mechanisms, including distance learning, mentoring programs, small group inquiries, computer-assisted training, and mechanisms based on trainer-of-trainer models.

(d) The commissioner shall use funds appropriated for the purpose to administer this section.

Sec. 21.455. PROFESSIONAL DEVELOPMENT INSTITUTES IN MATHEMATICS. (a) The commissioner shall develop and make available professional development institutes for teachers who provide instruction in mathematics to students at the fifth through eighth grade levels.

(b) A professional development institute developed under this section must address:

(1) the underlying mathematical skills required to be taught at the relevant grade levels; and

(2) mathematical instruction techniques that, through scientific testing, have been proven effective.

(c) The commissioner shall develop professional development institutes under this section in consultation with mathematics and science faculty members at institutions of higher education.

(d) The commissioner shall adopt criteria for selection of teachers authorized to attend a professional development institute developed under this section.

(e) From funds appropriated for the purpose, the commissioner shall pay a stipend to each teacher who completes a professional development institute developed under this section. The commissioner shall determine the amount of the stipend paid under this subsection.

SECTION 6. Subchapter A, Chapter 28, Education Code, is amended by adding Section 28.007 to read as follows:

Sec. 28.007. MATHEMATICS DIAGNOSIS. (a) Using funds appropriated for the purpose, the commissioner shall develop and make available or contract for the development and dissemination of assessment instruments that a school district may use to diagnose student mathematics skills. In developing the assessment instruments, all assessment methods available through advanced technology, including methods using the Internet or other computer resources to provide immediate assessment of a student's skills shall be considered.

(b) The results of assessment instruments developed under Subsection (a) may not be used for purposes of appraisals and incentives under Chapter 21 or accountability under Chapter 39.

SECTION 7. Subchapter C, Chapter 29, Education Code, is amended by adding Section 29.087 to read as follows:

Sec. 29.087. AFTER-SCHOOL AND SUMMER INTENSIVE MATHEMATICS INSTRUCTION PROGRAMS. (a) A school district may provide an intensive after-school program or an intensive program during the period that school is recessed for the summer to provide mathematics instruction to:

(1) students who are not performing at grade level in mathematics to assist those students in performing at grade level;

(2) students who are not performing successfully in a mathematics course to assist those students in successfully completing the course; or

(3) students other than those described by Subdivision (1) or (2), as determined by the district.

(b) Before providing a program under this section, the board of trustees of a school district must adopt a policy for:

(1) determining student eligibility for participating in the program that:

(A) prescribes the grade level or course a student must be enrolled in to be eligible; and

(B) provides for considering teacher recommendations in determining eligibility;

(2) ensuring that parents of or persons standing in parental relation to eligible students are provided notice of the program;

(3) ensuring that eligible students are encouraged to attend the program;

(4) ensuring that the program is offered at one or more locations in the district that are easily accessible to eligible students; and

(5) measuring student progress on completion of the program.

(c) The commissioner by rule shall:

(1) prescribe a procedure that a school district must follow to apply for and receive funding for a program under this section;

(2) adopt guidelines for determining which districts receive funding if there is not sufficient funding for each district that applies;

(3) require each district providing a program to report student performance results to the commissioner within the period and in the manner prescribed by the rule; and

(4) based on district reports under Subdivision (3) and any required analysis and verification of those reports, disseminate to each district in this state information concerning instructional methods that have proved successful in improving student performance in mathematics.

(d) A program provided under this section shall be paid for with funds appropriated for that purpose.

SECTION 8. Section 39.023, Education Code, is amended by amending Subsections (e) and (i) and adding Subsections (d), (j), and (m) to read as follows:

(d) The commissioner may participate in multistate efforts to develop voluntary standardized end-of-course assessment instruments. The commissioner by rule may require a school district to administer an end-of-course assessment instrument developed through the multistate efforts. The

admission, review, and dismissal committee of a student in a special education program under Subchapter A, Chapter 29, shall determine whether any allowable modification is necessary in administering to the student an end-of-course assessment instrument or whether the student should be exempted under Section 39.027(a)(2).

(e) Under rules adopted by the State Board of Education, the agency shall release the questions and answer keys to each assessment instrument administered under Subsection (a), (b), (c), (d), or (l) after the last time the instrument is administered for a school year. To ensure a valid bank of questions for use each year, the agency is not required to release a question that is being field-tested and was not used to compute the student's score on the instrument. The agency shall also release, under board rule, each question that is no longer being field-tested and that was not used to compute a student's score.

(i) The provisions of this section, except Subsection (d), are subject to modification by rules adopted under Section 39.022. Each assessment instrument adopted under those rules and each assessment instrument required under Subsection (d) must be reliable and valid and must meet any applicable federal requirements for measurement of student progress.

(j) The commissioner shall develop a standardized end-of-course assessment instrument for Algebra I. The commissioner by rule may require a school district to administer an end-of-course assessment instrument in Algebra I. The admission, review, and dismissal committee of a student in a special education program under Subchapter A, Chapter 29, shall determine whether any allowable modification is necessary in administering to the student an end-of-course assessment instrument or whether the student should be exempted under Section 39.027(a)(2).

(m) This subsection applies only to a student who is determined to have dyslexia or a related disorder and who is an individual with a disability under 29 U.S.C. Section 705(20) and its subsequent amendments. The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess the ability of and to be administered to each student to whom this subsection applies for whom the assessment instruments adopted under Subsection (a), even with allowable modifications, would not provide an appropriate measure of student achievement, as determined by the committee established by the board of trustees of the district to determine the placement of students with dyslexia or related disorders. The committee shall determine whether any allowable modification is necessary in administering to a student an assessment instrument required under this subsection. The assessment instruments required under this subsection shall be administered on the same schedule as the assessment instruments administered under Subsection (a).

SECTION 9. Subsection (b), Section 39.051, Education Code, as amended by Chapters 396, 397, and 1422, Acts of the 76th Legislature, Regular Session, 1999, is reenacted and 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 desegregated with respect to race, ethnicity, sex, and socioeconomic status and must include:

(1) the results of assessment instruments required under Sections 39.023(a), (c), and (l), aggregated by grade level and subject area;

(2) dropout rates, including dropout rates and district completion rates for grade levels 9 through 12;

(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), the American College Test, articulated postsecondary degree programs described by Section 61.852, and certified workforce training programs described by Chapter 311, Labor Code;

(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) for 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;

(9) the percentage of students exempted, by exemption category, from the assessment program generally applicable under this subchapter; and

(10) any other indicator the State Board of Education adopts.

SECTION 10. Subsection (a), Section 39.053, Education Code, as amended by Chapters 510 and 1417, Acts of the 76th Legislature, Regular Session, 1999, is reenacted and amended to read as follows:

(a) Each board of trustees shall publish an annual report describing the educational performance of the district and of each campus in the district that includes uniform student performance and descriptive information as determined under rules adopted by the commissioner. The annual report must also include:

(1) campus performance objectives established under Section 11.253 and the progress of each campus toward those objectives, which shall be available to the public;

(2) the performance rating for the district as provided under Section 39.072(a) and the performance rating of each campus in the district as provided under Section 39.072(c); ~~and~~

(3) the district's current special education compliance status with the agency;

(4) ~~[In addition, the annual report must include]~~ a statement of the number, rate, and type of violent or criminal incidents that occurred on each



district campus, to the extent permitted under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g);

(5) ~~[-]~~ information concerning school violence prevention and violence intervention policies and procedures that the district is using to protect students;

(6) ~~[-and]~~ the findings that result from evaluations conducted under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. Section 7101 et seq.) and its subsequent amendments; and

(7) information received under Section 51.403(e) for each high school campus in the district, presented in a form determined by the commissioner.

SECTION 11. Subchapter C, Chapter 39, Education Code, is amended by adding Section 39.055 to read as follows:

Sec. 39.055. ANNUAL AUDIT OF DROPOUT RECORDS; REPORT.

(a) The board of trustees of each school district shall have the district's dropout records audited annually at district expense by a public accountant or certified public accountant who:

(1) is certified or registered, as appropriate, and licensed under Chapter 901, Occupations Code;

(2) has successfully completed training provided by the agency in auditing school dropout records; and

(3) is not an employee of the district.

(b) The audit of dropout records must be completed following the end of each school year.

(c) The audit of dropout records must meet at least the minimum requirements and be in the format prescribed by the commissioner, subject to review and comment by the state auditor.

(d) The district shall submit a copy of the report of the audit of dropout records, approved by the district's board of trustees, to the agency. If the board of trustees declines or refuses to approve the report, the board shall file with the agency a copy of the report with the board's statement giving detailed reasons for not approving the report. The district must submit a copy of the report and any statement required by this subsection not later than the 90th day after the last day permissible for resubmission of information required under Section 42.006.

(e) The agency shall review each report of an audit of dropout records. The commissioner shall notify the board of trustees of a school district of any objection the commissioner has to the district's report, any violation of sound accounting practices or of a law or rule revealed by the report, or any recommendation by the commissioner concerning the report. If the report reflects that a penal law has been violated, the commissioner shall notify the county attorney, district attorney, or criminal district attorney, as appropriate, and the attorney general. The commissioner is entitled to access to all district records the commissioner considers necessary or appropriate for the review, analysis, or approval of a report.

SECTION 12. (a) Subchapter D, Chapter 39, Education Code, is amended by adding Section 39.0721 to read as follows:

Sec. 39.0721. VOLUNTARY GOLD PERFORMANCE RATING PROGRAM. (a) In addition to district and campus performance ratings reported under Section 39.072, the commissioner, in consultation with an

advisory committee appointed under this section, shall develop a voluntary gold performance rating program based on enhanced performance. The agency shall administer the program.

(b) Under the voluntary gold performance rating program, a district or campus rated exemplary under Section 39.072 may apply to the agency for an exemplary gold rating, a district or campus rated recognized may apply for a recognized gold rating, and a district or campus rated academically acceptable may apply for an academically acceptable gold rating.

(c) The performance standards on which a voluntary gold performance rating is based should include:

(1) student proficiency on:

(A) assessment instruments administered under Sections 39.023(a), (c), and (l); and

(B) other measures of proficiency determined by the commissioner;

(2) student performance on one or more nationally recognized norm-referenced assessment instruments;

(3) improvement in student performance;

(4) in the case of middle or junior high school campuses, student proficiency in mathematics, including algebra; and

(5) in the case of high school campuses:

(A) the extent to which graduating students are academically prepared to attend institutions of higher education;

(B) the percentage of students who take advanced placement tests and student performance on those tests; and

(C) the percentage of students who take and successfully complete college-level course work offered through concurrent enrollment programs provided under agreements between high schools and institutions of higher education.

(d) The advisory committee assisting the commissioner in developing the voluntary gold performance rating program consists of seven members appointed by the commissioner as follows:

(1) two public school teachers;

(2) two public school administrators; and

(3) three persons with experience in the area of public school accountability.

(e) The commissioner may adopt rules as necessary to implement and administer this section, including rules establishing a procedure and form a district or campus must use in applying to the agency for a voluntary rating.

(b) Not later than March 1, 2002, the commissioner of education shall appoint members to the advisory committee for the voluntary gold performance rating program as provided by Section 39.0721(d), Education Code, as added by Subsection (a) of this section.

(c) Not later than March 30, 2006, the commissioner of education shall complete development of the voluntary gold performance rating program as provided by Section 39.0721, Education Code, as added by Subsection (a) of this section, and shall adopt any rules necessary for implementation and administration of Section 39.0721, Education Code.

(d) Beginning with the 2006-2007 school year or an earlier school year, the Texas Education Agency shall implement the voluntary gold performance rating program under Section 39.0721, Education Code, as added by Subsection (a) of this section.

SECTION 13. Section 39.131, Education Code, is amended by adding Subsection (a-1) to read as follows:

(a-1) This subsection applies regardless of whether a district has satisfied the accreditation criteria. If for a period of one year or more a district has had a master or management team assigned, the commissioner may appoint a board of managers composed of residents of the district to exercise the powers and duties of the board of trustees.

SECTION 14. Subsection (a), Section 39.182, Education Code, is amended to read as follows:

(a) 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 comprehensive report covering the preceding two school years and containing:

(1) an evaluation of the achievements of the state educational program in relation to the statutory goals for the public education system under Section 4.002;

(2) an evaluation of the status of education in the state as reflected by the academic excellence indicators adopted under Section 39.051;

(3) a summary compilation of overall student performance on academic skills assessment instruments required by Section 39.023, aggregated by grade level, subject area, campus, and district, with appropriate interpretations and analysis and desegregated by race, ethnicity, sex, and socioeconomic status;

(4) an evaluation of the correlation between student grades and student performance on academic skills assessment instruments required by Section 39.023;

(5) a statement of the dropout rate of students in grade levels 7 through 12, expressed in the aggregate and by grade level, and a statement of the completion rates of students for grade levels 9 through 12;

(6) a statement of the projected cross-sectional and longitudinal dropout rates for grade levels 7 through 12 for the next five years, assuming no state action is taken to reduce the dropout rate;

(7) a description of a systematic plan for reducing the projected cross-sectional and longitudinal dropout rates to five percent or less for the 1997-1998 school year;

(8) a summary of the information required by Section 29.083 regarding grade level retention of students;

(9) a list of each school district or campus that does not satisfy performance standards, with an explanation of the actions taken by the commissioner to improve student performance in the district or campus and an evaluation of the results of those actions;

(10) an evaluation of the status of the curriculum taught in public schools, with recommendations for legislative changes necessary to improve or modify the curriculum required by Section 28.002;

(11) a description of all funds received by and each activity and expenditure of the agency;

(12) a summary and analysis of the compliance of school districts with administrative cost ratios set by the commissioner under Section 42.201, including any improvements and cost savings achieved by school districts;

(13) a summary of the effect of deregulation, including exemptions and waivers granted under Section 7.056 or 39.112;

(14) a statement of the total number and length of reports that school districts and school district employees must submit to the agency, identifying which reports are required by federal statute or rule, state statute, or agency rule, and a summary of the agency's efforts to reduce overall reporting requirements;

(15) a list of each school district that is not in compliance with state special education requirements, including:

(A) the period for which the district has not been in compliance;

(B) the manner in which the agency considered the district's failure to comply in determining the district's accreditation status; and

(C) an explanation of the actions taken by the commissioner to ensure compliance and an evaluation of the results of those actions; and

(16) any additional information considered important by the commissioner or the State Board of Education.

SECTION 15. Subsection (b), Section 822.201, Government Code, is amended to read as follows:

(b) "Salary and wages" as used in Subsection (a) means:

(1) normal periodic payments of money for service the right to which accrues on a regular basis in proportion to the service performed;

(2) amounts by which the member's salary is reduced under a salary reduction agreement authorized by Chapter 610;

(3) amounts that would otherwise qualify as salary and wages under Subdivision (1) but are not received directly by the member pursuant to a good faith, voluntary written salary reduction agreement in order to finance payments to a deferred compensation or tax sheltered annuity program specifically authorized by state law or to finance benefit options under a cafeteria plan qualifying under Section 125 of the Internal Revenue Code of 1986 [~~26 U.S.C. Section 125~~], if:

(A) the program or benefit options are made available to all employees of the employer; and

(B) the benefit options in the cafeteria plan are limited to one or more options that provide deferred compensation, group health and disability insurance, group term life insurance, dependent care assistance programs, or group legal services plans;

(4) performance pay awarded to an employee by a school district as part of a total compensation plan approved by the board of trustees of the district and meeting the requirements of Subsection (e); ~~and~~

(5) the benefit replacement pay a person earns under Subchapter H, Chapter 659, as added by Chapter 417, Acts of the 74th Legislature, 1995, except as provided by Subsection (c); and

(6) stipends paid to teachers in accordance with Section 21.410 or 21.411, Education Code.

SECTION 16. (a) The State Board for Educator Certification shall propose rules establishing requirements and prescribing an examination for master mathematics teacher certification as required by Section 21.0482, Education Code, as added by this Act, not later than January 1, 2003.

(b) Beginning with the 2003-2004 school year:

(1) the commissioner of education shall pay grants under Section 21.411, Education Code, as added by this Act; and

(2) school districts receiving grants shall pay stipends to certified master mathematics teachers under Section 21.411, Education Code, as added by this Act.

SECTION 17. Before the 2005-2006 school year, the Texas Education Agency shall field-test assessment instruments required to be adopted or developed under Section 39.023(m), Education Code, as added by this Act. Not later than the 2005-2006 school year, the Texas Education Agency shall adopt or develop and the State Board of Education shall administer those assessment instruments.

SECTION 18. Each school district shall have its dropout records audited as required by Section 39.055, Education Code, as added by this Act, beginning with dropout records for the 2001-2002 school year.

SECTION 19. Not later than February 1, 2002, the Texas Education Agency shall:

(1) develop a training program for public accountants and certified public accountants in auditing public school dropout records as provided under Section 39.055, Education Code, as added by this Act; and

(2) make the training program readily available to public accountants and certified public accountants throughout this state.

SECTION 20. (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

(b) Sections 9, 10, and 14 of this Act take effect September 1, 2001.

### **Senate Amendment No. 1 (Senate Floor Amendment No. 1 - 2nd Reading)**

Amend **CSHB 1144** as follows:

(1) In SECTION 2 of the bill (Committee Printing page 1, line 50), strike "develop and make available a service" and substitute "help make available services".

(2) In SECTION 2 of the bill (Committee Printing page 1, line 52), strike "service" and substitute "services".

(3) In SECTION 2 of the bill (Committee Printing page 1, line 54), strike "making the service" and substitute "helping make the services".

(4) In SECTION 2 of the bill (Committee Printing page 1, line 59), strike "developed for the service" and substitute "offered through the service".

(5) In SECTION 2 of the bill (Committee Printing page 2, line 3), strike "and".

(6) In SECTION 2 of the bill (Committee Printing page 2, line 5), after "particular student" and ";", insert "; and

(5) to the extent possible, should correlate to an instructional program or programs being used in classrooms in this state".

**Senate Amendment No. 2 (Senate Floor Amendment No. 2 - 2nd Reading)**

Amend **CSHB 1144** (Senate committee printing) as follows:

(1) In proposed Section 39.131 on page 9, line 3, between "(a-1)" and "to", add "and Subsections (f) and (j)"

(2) In proposed Section 39.131 on page 9, lines 7 and 8, between "managers" and "residents," strike "~~composed of~~" and insert ", a majority of whom must be"

(3) In proposed Section 39.131 on page 9, line 8, between "district" and "to", insert "s."

(4) In proposed Section 39.131 on page 9, line 10, insert the following subsections and re-alphabetize as appropriate:

(f) A board of managers may exercise all of the powers and duties assigned to a board of trustees of a school district by law, rule, or regulation. This section applies to a district governed by a board of managers in the same manner that this section applies to any other district. A master or a member of a management team appointed to serve on a board of managers may continue to be compensated as determined by the commissioner. At the direction of the commissioner but not later than the second anniversary of the date the board of managers was appointed, the board of managers shall order an election of members of the district board of trustees. The election must be held on a uniform election date on which an election of district trustees may be held under Section 41.001, Election Code, that is at least 180 days after the date the election was ordered. On qualification of members for office, the board of trustees assumes all of the powers and duties assigned to a board of trustees by law, rule, or regulation.

(j) An employee, volunteer, or contractor acting on behalf of the commissioner under this subchapter is immune from civil liability to the same extent as a professional employee of a school district under Section 22.051.

**Senate Amendment No. 3 (Senate Floor Amendment No. 1 - 3rd Reading)**

Amend **HB 1144** on third reading as follows:

(1) On page 1, line 26, insert a new SECTION 2 as follows, and renumber subsequent subsections accordingly:

SECTION 2. Section 28.025, Education Code, is amended to read as follows:

Sec. 28.025. HIGH SCHOOL DIPLOMA AND CERTIFICATE; ACADEMIC ACHIEVEMENT RECORD. (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.

(b) A school district shall ensure that each student enrolls in the courses necessary to complete the curriculum requirements identified by the State Board of Education under Subsection (a) for the recommended or advanced high school program unless the student, the student's parent or other person standing in parental relation to the student, and school counselor or school administrator agree that the student should be permitted to take courses under the minimum high school program.

(c) A student may graduate and receive a diploma only if:

(1) the student successfully completes the curriculum requirements identified by the State Board of Education under Subsection (a) [board] and complies with Section 39.025(a); or

(2) the student successfully completes an individualized education program developed under Section 29.005.

(d) [(b)] A school district may issue a certificate of coursework completion to a student who successfully completes the curriculum requirements identified by the State Board of Education under Subsection (a) but who fails to comply with Section 39.025(a) [perform satisfactorily on the assessment instruments specified by Subsection (a)]. A school district may allow a student who receives a certificate to participate in a graduation ceremony with students receiving high school diplomas.

(e) [(c)] Each school district shall report the academic achievement record of students who have completed a minimum, recommended, or advanced high school program on transcript forms adopted by the State Board of Education. The transcript forms adopted by the board must be designed to clearly differentiate between each of the high school programs and identify whether a student received a diploma or a certificate of course work completion.

(f) Subsection (b) applies to students entering the ninth grade in the 2004-2005 school year and thereafter. This subsection expires September 1, 2004.

#### **Senate Amendment No. 4 (Senate Floor Amendment No. 2 - 3rd Reading)**

Amend **CSHB 1144** on third reading as follows:

(1) In SECTION 2 of the bill (Committee Printing page 1, line 63), strike "must" and substitute "may".

(2) In SECTION 2 of the bill (Committee Printing page 2, line 2), strike "must" and substitute "may".

#### **Senate Amendment No. 5 (Senate Floor Amendment No. 3 - 3rd Reading)**

Amend **CSHB 1144**, Senate Committee Report, by striking existing SECTION 12 of the bill (page 8, lines 9-55) and substituting the following:

SECTION 12. (a) Subchapter D, Chapter 39, Education Code, is amended by adding Section 39.0721 to read as follows:

Sec. 39.0721. GOLD PERFORMANCE RATING PROGRAM. (a) In addition to district and campus performance ratings reported under Section 39.072, the commissioner shall develop a gold performance rating program based on enhanced performance. The agency shall administer the program.

(b) Under the gold performance rating program, a district or campus rated exemplary under Section 39.072 is eligible for an exemplary gold rating, a district or campus rated recognized is eligible for a recognized gold rating, and a district or campus rated academically acceptable is eligible for an academically acceptable gold rating.

(c) The performance standards on which a gold performance rating is based should include:

(1) student proficiency on:

(A) assessment instruments administered under Sections 39.023(a), (c), and (l); and

(B) other measures of proficiency determined by the commissioner;

(2) student performance on one or more nationally recognized norm-referenced assessment instruments;

(3) improvement in student performance;

(4) in the case of middle or junior high school campuses, student proficiency in mathematics, including algebra; and

(5) in the case of high school campuses:

(A) the extent to which graduating students are academically prepared to attend institutions of higher education;

(B) the percentage of students who take advanced placement tests and student performance on those tests; and

(C) the percentage of students who take and successfully complete advanced academic courses or college-level course work offered through dual credit programs provided under agreements between high schools and institutions of higher education.

(d) The commissioner may adopt rules as necessary to implement and administer this section.

(b) Not later than June 30, 2002, the commissioner of education shall complete development of the gold performance rating program as provided by Section 39.0721, Education Code, as added by Subsection (a) of this section, and shall adopt any rules necessary for implementation and administration of Section 39.0721, Education Code.

(c) Beginning with the 2001-2002 school year, the Texas Education Agency shall implement the gold performance rating program under Section 39.0721, Education Code, as added by Subsection (a) of this section.

### **HB 1161 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1161**, A bill to be entitled An Act relating to the administration of the Business Enterprises Program trust fund.

On motion of Representative Naishtat, the house concurred in the senate amendments to **HB 1161** by (Record 552): 125 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Chavez; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Garcia; George; Geren; Giddings; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.;



Morrison; Mowery; Naishtat; Najera; Noriega; Oliveira; Pickett; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smithee; Solis; Solomons; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wohlgenuth; Wolens; Woolley; Yarbrough.

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

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; West.

Absent, Excused, Committee Meeting — Dunnam; Hardcastle; Olivo; Sadler; Smith.

Absent — Carter; Chisum; Farrar; Flores; Glaze; Hartnett; Kolkhorst; Moreno, P.; Nixon; Pitts; Swinford; Wise; Zbranek.

### Senate Committee Substitute

**CSHB 1161**, A bill to be entitled An Act relating to the administration of the Business Enterprises Program trust fund.

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

SECTION 1. Section 404.094(d), Government Code, is amended to read as follows:

(d) A state agency that receives money from securities transactions under applicable law, including Chapter 815 or 825, Government Code, Chapter 161, 162, or 164, Natural Resources Code, Chapter 43, Education Code, Section 94.016, Human Resources Code, and the Texas Statewide Emergency Services Retirement Act (Article 6243e.3, Vernon's Texas Civil Statutes), with the comptroller's approval may, as an alternative to the deposit of the funds as provided by Subsection (a), net funds received against purchases of securities occurring within one business day. Any proceeds received and available for reinvestment that are not reinvested within one business day of receipt shall be deposited in the state treasury as provided by Subsection (a). An agency authorized to net securities transactions under this section is subject to the accounting and reporting procedures established by the comptroller.

SECTION 2. Section 94.016, Human Resources Code, is amended by adding Subsections (f) and (g) to read as follows:

(f) The commission may contract with a professional management service to administer the Business Enterprises Program trust fund. In administering the trust fund, the professional management service may acquire, exchange, sell, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire, exchange, sell, or retain under the circumstances, taking into consideration the investment of all the assets of the trust fund.

(g) With the approval of the comptroller, the commission may select a commercial bank, depository trust company, or other entity to serve as a custodian of the Business Enterprises Program trust fund's securities, and money realized from those securities, pending completion of an investment transaction. Money realized from those securities must be:

(1) reinvested not later than one business day after the date it is received; or

(2) deposited in the treasury not later than the fifth business day after the date it is received.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

### **HB 1183 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1183**, A bill to be entitled An Act relating to the regulation of surgical assistants and to the determination of whether a patient is a non-indigent patient; granting rulemaking authority; providing an administrative penalty.

On motion of Representative Capelo, the house concurred in the senate amendments to **HB 1183**.

#### **Senate Committee Substitute**

**CSHB 1183**, A bill to be entitled An Act relating to the regulation of surgical assistants; granting rulemaking authority; providing an administrative penalty.

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

SECTION 1. Subtitle C, Title 3, Occupations Code, is amended by adding Chapter 206 to read as follows:

#### CHAPTER 206. SURGICAL ASSISTANTS SUBCHAPTER A. GENERAL PROVISIONS

Sec. 206.001. DEFINITIONS. In this chapter:

(1) "Advisory committee" means the advisory committee created under this chapter.

(2) "Delegating physician" means a physician who is licensed by the medical board either as a doctor of medicine or doctor of osteopathic medicine and who delegates, to a licensed surgical assistant, surgical assisting and oversees and accepts responsibility for that surgical assisting.

(3) "Direct supervision" means supervision by a delegating physician who is physically present and who personally directs delegated acts and remains immediately available to personally respond to any emergency until the patient is released from the operating room or care and has been transferred, as determined by medical board rule, to another physician.

(4) "Executive director" means the executive director of the medical board.

(5) "Medical board" means the Texas State Board of Medical Examiners.

(6) "Surgical assisting" means providing aid under direct supervision

in exposure, hemostasis, and other intraoperative technical functions that assist a physician in performing a safe operation with optimal results for the patient, including the delegated authority to provide local infiltration or the topical application of a local anesthetic at the operation site. This term is synonymous with "first assisting."

Sec. 206.002. APPLICABILITY. (a) A person is not required to hold a license under this chapter if the person is:

(1) a student enrolled in a surgical assistant education program approved by the medical board who is assisting in a surgical operation that is an integral part of the program of study;

(2) a surgical assistant employed in the service of the federal government while performing duties related to that employment;

(3) a person acting under the delegated authority of a licensed physician;

(4) a licensed health care worker acting within the scope of the person's license;

(5) a registered nurse; or

(6) a licensed physician assistant.

(b) This chapter does not affect the authority of a licensed physician to delegate acts under Subtitle B.

[Sections 206.003-206.050 reserved for expansion]

#### SUBCHAPTER B. ADVISORY COMMITTEE

Sec. 206.051. ADVISORY COMMITTEE. (a) The advisory committee is an informal advisory committee to the medical board and is not subject to Chapter 2110, Government Code.

(b) The advisory committee has no independent rulemaking authority.

Sec. 206.052. APPOINTMENT OF ADVISORY COMMITTEE. (a) The advisory committee consists of five members appointed by the president of the medical board. Each member of the advisory committee must be:

(1) a practicing surgical assistant who has at least five years of clinical experience as a surgical assistant; or

(2) a physician licensed in this state who supervises a surgical assistant.

(b) Appointments to the advisory committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Sec. 206.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person may not be a member of the advisory committee if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of surgical assisting; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of surgical assisting.

(c) A person may not be a member of the advisory committee if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the field of surgical assisting.

Sec. 206.054. TERMS; VACANCY. (a) Members of the advisory committee are appointed for two-year terms. The terms of the members expire on February 1 of each odd-numbered year.

(b) If a vacancy occurs during a member's term, the president of the medical board shall appoint a new member to fill the unexpired term.

(c) An advisory committee member may not serve more than two consecutive full terms.

Sec. 206.055. GROUNDS FOR REMOVAL. (a) It is a ground for removal from the advisory committee that a member:

(1) does not have at the time of appointment the qualifications required by Section 206.052;

(2) does not maintain during service on the advisory committee the qualifications required by Section 206.052;

(3) is ineligible for membership under Section 206.053; or

(4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term.

(b) The validity of an action of the committee is not affected by the fact that it is taken when a ground for removal of a committee member exists.

Sec. 206.056. OFFICERS. The president of the medical board shall designate biennially a committee member as the presiding officer of the advisory committee to serve in that capacity at the will of the president.

Sec. 206.057. PER DIEM. An advisory committee member is not entitled to reimbursement for travel expenses or compensation.

Sec. 206.058. MEETINGS. (a) The advisory committee shall meet as requested by the medical board.

(b) A meeting may be held by telephone conference call.

[Sections 206.059-206.100 reserved for expansion]

#### SUBCHAPTER C. POWERS AND DUTIES OF MEDICAL BOARD

Sec. 206.101. GENERAL POWERS AND DUTIES. The medical board shall:

(1) establish qualifications for a surgical assistant to practice in this state;

(2) establish requirements for an examination for a license to practice as a surgical assistant;

(3) establish minimum education and training requirements necessary for a license to practice as a surgical assistant;

(4) prescribe the application form for a license to practice as a surgical assistant; and

(5) develop an approved program of mandatory continuing education and the manner in which attendance at all approved courses, clinics, forums, lectures, programs, or seminars is monitored and recorded.

Sec. 206.102. ANNUAL REPORT. (a) The medical board shall prepare annually a complete and detailed written report accounting for all funds received and disbursed by the medical board under this chapter during the preceding fiscal year.

(b) The annual report must meet the reporting requirements applicable to financial reporting provided in the General Appropriations Act.

Sec. 206.103. GIFTS, GRANTS, AND DONATIONS. In addition to any fees paid to the medical board or money appropriated to the medical board, the medical board may receive and accept under this chapter a gift, grant, donation, or other item of value from any source, including the United States or a private source.

[Sections 206.104-206.150 reserved for expansion]

SUBCHAPTER D. PUBLIC INTEREST INFORMATION; COMPLAINT AND INVESTIGATIVE INFORMATION

Sec. 206.151. PUBLIC PARTICIPATION. (a) The medical board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the medical board and speak on any issue relating to surgical assistants.

(b) The executive director of the medical board shall prepare and maintain a written plan that describes how a person who does not speak English may be provided reasonable access to the medical board's programs and services under this chapter.

Sec. 206.152. PUBLIC INTEREST INFORMATION. (a) The medical board shall prepare information of public interest describing the functions of the medical board and the procedures by which complaints are filed and resolved under this chapter.

(b) The medical board shall make the information available to the public and appropriate state agencies.

Sec. 206.153. COMPLAINTS. (a) The medical board by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the medical board for the purpose of directing complaints about licensed surgical assistants to the medical board.

(b) The medical board shall list with its regular telephone number any toll-free telephone number established under other state law that may be called to present a complaint about a licensed surgical assistant.

Sec. 206.154. RECORDS OF COMPLAINTS. (a) The medical board shall maintain a file on each written complaint filed with the medical board under this chapter. The file must include:

- (1) the name of the person who filed the complaint;
- (2) the date the complaint is received by the medical board;
- (3) the subject matter of the complaint;
- (4) the name of each person contacted in relation to the complaint;
- (5) a summary of the results of the review or investigation of the complaint; and

(6) an explanation of the reason the file was closed, if the medical board closed the file without taking action other than to investigate the complaint.

(b) The medical board shall provide to the person filing the complaint and to each person who is a subject of the complaint a copy of the medical board's policies and procedures relating to complaint investigation and resolution. A person who reports a complaint by phone shall be given information on how to file a written complaint.

(c) The medical board, at least quarterly and until final disposition of the

complaint, shall notify the person filing the complaint and each person who is a subject of the complaint of the status of the investigation unless the notice would jeopardize an undercover investigation.

Sec. 206.155. LICENSE HOLDER ACCESS TO COMPLAINT INFORMATION. (a) The medical board shall provide a license holder who is the subject of a formal complaint filed under this chapter with access to all information in its possession that the medical board intends to offer into evidence in presenting its case in chief at the contested hearing on the complaint, subject to any other privilege or restriction established by rule, statute, or legal precedent. The medical board shall provide the information not later than the 30th day after receipt of a written request from the license holder or the license holder's counsel, unless good cause is shown for delay.

(b) Notwithstanding Subsection (a), the medical board is not required to provide:

- (1) medical board investigative reports;
- (2) investigative memoranda;
- (3) the identity of a nontestifying complainant;
- (4) attorney-client communications;
- (5) attorney work product; or
- (6) other material covered by a privilege recognized by the Texas Rules of Civil Procedure or the Texas Rules of Evidence.

(c) The provision of information does not constitute a waiver of privilege or confidentiality under this chapter or other law.

Sec. 206.156. HEALTH CARE ENTITY REQUEST FOR INFORMATION. On the written request of a health care entity, the medical board shall provide to the entity:

(1) information about a complaint filed against a license holder that was resolved after investigation by:

- (A) a disciplinary order of the medical board; or
- (B) an agreed settlement; and

(2) the basis of and current status of any complaint under active investigation that has been referred by the executive director or the director's designee for legal action.

Sec. 206.157. CONFIDENTIALITY OF INVESTIGATIVE INFORMATION. A complaint, adverse report, investigation file, or other report, the identity of and reports made by a physician or surgical assistant performing or supervising compliance monitoring for the medical board, or other investigative information in the possession of or received or gathered by the medical board, medical board employee or agent relating to a license holder, a license application, or a criminal investigation or proceeding is privileged and confidential and is not subject to discovery, subpoena, or other means of legal compulsion for release to any person other than the medical board or medical board employee or agent involved in license holder discipline.

Sec. 206.158. PERMITTED DISCLOSURE OF INVESTIGATIVE INFORMATION. (a) Investigative information in the possession of the medical board, medical board employee, or agent that relates to the discipline of a license holder may be disclosed to:

(1) a licensing authority in another state or a territory or country in which the license holder is licensed or has applied for a license; or

(2) a peer review committee reviewing:

(A) an application for privileges; or

(B) the qualifications of the license holder with respect to retaining privileges.

(b) If the investigative information in the possession of the medical board or a medical board employee or agent indicates a crime may have been committed, the medical board shall report the information to the proper law enforcement agency. The medical board shall cooperate with and assist all law enforcement agencies conducting criminal investigations of a license holder by providing information relevant to the investigation. Confidential information disclosed by the medical board to a law enforcement agency remains confidential and may not be disclosed by the law enforcement agency except as necessary to further the investigation.

Sec. 206.159. IMMUNITY AND REPORTING REQUIREMENTS. (a) A medical peer review committee in this state, a quality assurance committee in this state, a surgical assistant, a surgical assistant student, a physician practicing medicine in this state, or any person usually present in an operating room, including a nurse or surgical technologist, shall report relevant information to the advisory committee related to the acts of a surgical assistant in this state if, in that person's opinion, a surgical assistant poses a continuing threat to the public welfare through the person's practice as a surgical assistant. The duty to report under this section may not be nullified through contract.

(b) A person who, without malice, furnishes records, information, or assistance to the advisory committee under this section is immune from any civil liability arising from that action in a suit against the person brought by or on behalf of a surgical assistant who is reported under this section.

(c) Sections 160.002, 160.003, 160.006, 160.007, 160.009, 160.013, and 160.014 apply to medical peer review regarding a licensed surgical assistant.

[Sections 206.160-206.200 reserved for expansion]

#### SUBCHAPTER E. LICENSE REQUIREMENTS

Sec. 206.201. LICENSE REQUIRED. (a) Except as provided by Section 206.002, a person may not practice as a surgical assistant unless the person is licensed under this chapter.

(b) Unless the person holds a license under this chapter, a person may not use, in connection with the person's name:

(1) the title "Licensed Surgical Assistant"; or

(2) any other designation that would imply that the person is a licensed surgical assistant.

Sec. 206.202. LICENSE APPLICATION. An applicant for a license must:

(1) file a written application with the medical board on a form prescribed by the medical board; and

(2) pay the application fee set by the medical board.

Sec. 206.203. LICENSE ELIGIBILITY. (a) Except as provided by Section 206.206, to be eligible for a license, a person must:

(1) be of good moral character;

(2) have not been convicted of a felony or a crime involving moral turpitude;

(3) not use drugs or alcohol to an extent that affects the applicant's professional competency;

(4) not have had a license or certification revoked by a licensing agency or by a certifying professional organization; and

(5) not have engaged in fraud or deceit in applying for a license under this chapter.

(b) In addition to meeting the requirements of Subsection (a), a person must:

(1) pass the examination required by Section 206.204;

(2) hold at least an associate's degree based on completion of an educational program that is substantially equivalent to the education required for a registered nurse or physician assistant who specializes in surgical assisting;

(3) demonstrate to the satisfaction of the medical board the completion of full-time work experience performed in this country under the direct supervision of a physician licensed in this country and consisting of at least 2,000 hours of performance as an assistant in surgical procedures for the three years preceding the date of application; and

(4) possess a current certification by a national certifying body approved by the medical board.

(c) A degree program described by Subsection (b)(2) must contain a clinical component and must include courses in anatomy, physiology, basic pharmacology, aseptic techniques, operative procedures, chemistry, microbiology, and pathophysiology.

Sec. 206.204. EXAMINATION. An applicant for a surgical assistant license must pass a surgical assistant examination approved by the medical board. Any written portion of the examination must be validated by an independent testing professional.

Sec. 206.205. SPECIAL ELIGIBILITY FOR LICENSE. (a) A person who is otherwise eligible for a license under Section 206.203 is not required to take the examination required by Section 206.203(b)(1) if the person:

(1) passed a surgical assistant examination required for certification under Section 206.203(b)(4) that the medical board determines is substantially equivalent to the examination required by the medical board under this chapter; and

(2) applies for a license under this section before September 1, 2002.

(b) A person who is otherwise eligible for a license under Section 206.203 is not required to meet the educational requirements under Section 206.203(b)(2) if the person applies for a license under this section before September 1, 2002, and:

(1) will complete before the third anniversary of the date the license is issued under this subsection the following academic courses approved by the medical board:

(A) anatomy;

(B) physiology;

(C) basic pharmacology;

(D) aseptic techniques;

(E) operative procedures;

(F) chemistry; and

(G) microbiology; or

(2) has been continuously certified after September 30, 1995, as a surgical assistant by a national certifying body approved by the medical



board and has practiced full-time as a surgical assistant under the direct supervision of a physician licensed in this country.

(c) A license issued under Subsection (b)(1) may not be renewed after the third anniversary of the date of issuance unless the license holder completes the academic courses described by Subsection (b)(1).

Sec. 206.206. TEMPORARY LICENSE. (a) The medical board may, through the executive director, issue a temporary license to an applicant who:

(1) submits an application on a form prescribed by the medical board;

(2) has passed an examination required by the medical board relating to the practice of surgical assisting;

(3) pays the appropriate fee set by the medical board;

(4) if licensed in another state, is licensed in good standing; and

(5) meets all the qualifications for a license under this chapter and is waiting for the next scheduled meeting of the medical board for the license to be issued.

(b) A temporary license is valid until the 100th day after the date issued and may be extended until the 130th day after the date issued.

Sec. 206.207. ASSISTANCE BY MEDICAL BOARD. The medical board shall provide administrative and clerical employees as necessary to administer this subchapter.

Sec. 206.208. FEES. (a) The medical board shall set and collect fees in amounts that are reasonable and necessary to cover the costs of administering and enforcing this chapter without the use of any other funds generated by the medical board.

(b) Fees collected by the medical board under this chapter shall be deposited by the medical board in the state treasury to the credit of an account in the general revenue fund and may be spent to cover the costs of administering and enforcing this chapter. At the end of each fiscal biennium, the comptroller shall transfer any surplus money remaining in the account to the general revenue fund.

(c) All money paid to the medical board under this chapter is subject to Subchapter F, Chapter 404, Government Code.

Sec. 206.209. ISSUANCE AND RENEWAL OF LICENSE. The medical board shall issue a surgical assistant license in this state to a person who meets the requirements of this chapter and the rules adopted under this chapter.

Sec. 206.210. LICENSE RENEWAL. (a) The medical board by rule shall provide for the annual renewal of a surgical assistant license.

(b) The medical board by rule may adopt a system under which licenses expire on various dates during the year. For the year in which the license expiration date is changed, license fees shall be prorated on a monthly basis so that each license holder pays only that portion of the license fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

Sec. 206.211. NOTICE OF LICENSE RENEWAL. At least 30 days before the expiration of a person's license, the medical board shall send written notice of the impending license expiration to the person at the license holder's last known address according to the records of the medical board.

Sec. 206.212. PROCEDURE FOR RENEWAL. (a) A person who is otherwise eligible to renew a license may renew an unexpired license by paying the required renewal fee to the medical board before the expiration date of the license. A person whose license has expired may not engage in activities that require a license until the license has been renewed under this section.

(b) If the person's license has been expired for 90 days or less, the person may renew the license by paying to the medical board one and one-half times the required renewal fee.

(c) If the person's license has been expired for longer than 90 days but less than one year, the person may renew the license by paying to the medical board two times the required renewal fee.

(d) If the person's license has been expired for one year or longer, the person may not renew the license. The person may obtain a new license by complying with the requirements and procedures for obtaining an original license.

Sec. 206.213. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE PRACTITIONER. (a) If the person was licensed as a surgical assistant in this state, moved to another state, and is currently licensed as a surgical assistant and has been in practice as a surgical assistant in the other state for the two years preceding application, the person may renew an expired surgical assistant license without reexamination.

(b) The person must pay to the medical board a fee that is equal to two times the required renewal fee for the license.

Sec. 206.214. LICENSE HOLDER INFORMATION. (a) Each license holder shall file with the medical board:

- (1) the license holder's mailing address;
- (2) the address of the license holder's residence;
- (3) the mailing address of each of the license holder's offices; and
- (4) the address for the location of each of the license holder's offices if that address is different from the office's mailing address.

(b) A license holder shall:

(1) notify the medical board of a change of the license holder's residence or business address; and

(2) provide the medical board with the license holder's new address not later than the 30th day after the date the address change occurs.

[Sections 206.215-206.250 reserved for expansion]

#### SUBCHAPTER F. SCOPE OF PRACTICE

Sec. 206.251. SCOPE OF PRACTICE. (a) The practice of a surgical assistant is limited to surgical assisting performed under the direct supervision of a physician who delegated the acts.

(b) The practice of a surgical assistant may be performed in any place authorized by a delegating licensed physician, including a clinic, hospital, ambulatory surgical center, or other institutional setting.

Sec. 206.252. SERVICE CONTRACTS. This chapter does not:

(1) limit the employment arrangement of a surgical assistant licensed under this chapter;

(2) require a surgeon or hospital to contract with a surgical assistant;

(3) authorize a health maintenance organization, preferred provider organization, or health benefit plan to require a surgeon to contract with a surgical assistant; or

(4) require a hospital to use a licensed surgical assistant for surgical assisting.

Sec. 206.253. CERTAIN PROHIBITED PRACTICES. (a) This chapter does not authorize a person who holds a license issued under this chapter to engage in the practice of:

(1) medicine, as defined by Subtitle B, Title 3, Occupations Code;

(2) professional nursing, as defined by Chapter 301, Occupations Code; or

(3) nursing, as defined by Chapter 302, Occupations Code.

(b) A health maintenance organization, preferred provider organization, or health benefit plan may not require a registered nurse or physician assistant to be licensed as a surgical assistant as a condition for reimbursement.

(c) A clinic, hospital, ambulatory surgical center, or other facility may not require a registered nurse or physician assistant to be licensed as a surgical assistant as a condition for assisting at surgery at the facility.

Sec. 206.254. ESTABLISHMENT OF CERTAIN FUNCTIONS AND STANDARDS. A surgical assistant and the surgical assistant's delegating physician shall ensure that:

(1) the surgical assistant's scope of function is identified;

(2) the delegation of medical tasks is appropriate to the surgical assistant's level of competence;

(3) the relationship between the surgical assistant and the delegating physician and the access of the surgical assistant to the delegating physician are defined; and

(4) a process is established for evaluating the surgical assistant's performance.

[Sections 206.255-206.300 reserved for expansion]

#### SUBCHAPTER G. DISCIPLINARY PROCEEDINGS

Sec. 206.301. DISCIPLINARY ACTIONS BY THE MEDICAL BOARD.

(a) Except as provided by Section 206.305, on a determination that an applicant or license holder committed an act described by Section 206.302, 206.303, or 206.304, the medical board by order shall take any of the following actions:

(1) deny the person's license application or revoke the person's license;

(2) require the person to submit to the care, counseling, or treatment of a health care practitioner designated by the medical board;

(3) stay enforcement of an order and place the person on probation;

(4) require the person to complete additional training;

(5) suspend, limit, or restrict the person's license, including:

(A) limiting the practice of the person to, or excluding from the person's practice, one or more specified activities of surgical assisting; or

(B) stipulating periodic medical board review;

(6) assess an administrative penalty against the person as provided by Section 206.351;

(7) order the person to perform public service; or

(8) administer a public reprimand.

(b) If the medical board stays enforcement of an order and places a person on probation, the medical board retains the right to vacate the

probationary stay and enforce the original order for noncompliance with the terms of probation or impose any other remedial measure or sanction authorized by this section.

(c) The medical board may restore or reissue a license or remove any disciplinary or corrective measure that the medical board has imposed.

Sec. 206.302. CONDUCT RELATED TO FRAUD OR MISREPRESENTATION. The medical board may take action under Section 206.301 against an applicant or license holder who:

(1) fraudulently or deceptively obtains or attempts to obtain a license;

(2) fraudulently or deceptively uses a license;

(3) falsely represents that the person is a physician;

(4) acts in an unprofessional or dishonorable manner that is likely to deceive, defraud, or injure the public;

(5) fraudulently alters any surgical assistant license, certificate, or diploma;

(6) uses any surgical assistant license, certificate, or diploma that has been fraudulently purchased, issued, or counterfeited or that has been materially altered;

(7) directly or indirectly aids or abets the practice as a surgical assistant by any person not licensed by the medical board to practice as a surgical assistant; or

(8) unlawfully advertises in a false, misleading, or deceptive manner as defined by Section 101.201.

Sec. 206.303. CONDUCT RELATED TO VIOLATION OF LAW. (a) The medical board may take action under Section 206.301 against an applicant or license holder who:

(1) violates this chapter or a rule adopted under this chapter;

(2) is convicted of a felony, placed on deferred adjudication, or placed in a pretrial diversion program; or

(3) violates state law if the violation is connected with practice as a surgical assistant.

(b) A complaint, indictment, or conviction of a law violation is not necessary for the medical board to act under Subsection (a)(3). Proof of the commission of the act while in practice as a surgical assistant or under the guise of practice as a surgical assistant is sufficient for action by the medical board.

Sec. 206.304. CONDUCT INDICATING LACK OF FITNESS. (a) The medical board may take action under Section 206.301 against an applicant or license holder who:

(1) habitually uses drugs or intoxicating liquors to the extent that, in the medical board's opinion, the person cannot safely perform as a surgical assistant;

(2) has been adjudicated as mentally incompetent;

(3) has a mental or physical condition that renders the person unable to safely perform as a surgical assistant;

(4) has committed an act of moral turpitude;

(5) has failed to practice as a surgical assistant in an acceptable manner consistent with public health and welfare;

(6) has had the person's license or other authorization to practice as a surgical assistant suspended, revoked, or restricted;

(7) has had other disciplinary action taken by another state or by the uniformed services of the United States regarding practice as a surgical assistant;

(8) is removed or suspended or has disciplinary action taken by the person's peers in any professional association or society or is being disciplined by a licensed hospital or medical staff of a hospital, including removal, suspension, limitation of privileges, or other disciplinary action, if that action, in the opinion of the medical board, was based on unprofessional conduct or professional incompetence that was likely to harm the public;

(9) has repeated or recurring meritorious health care liability claims that, in the medical board's opinion, are evidence of professional incompetence likely to harm the public; or

(10) sexually abuses or exploits another person during the license holder's practice as a surgical assistant.

(b) For the purpose of Subsection (a)(7), a certified copy of the record of the state or uniformed services of the United States taking the action constitutes conclusive evidence of that action.

(c) An action described by Subsection (a)(8) does not constitute state action on the part of the association, society, or hospital medical staff.

Sec. 206.305. REHABILITATION ORDER. The medical board, through an agreed order or after a contested case proceeding, may impose a rehabilitation order on an applicant, as a prerequisite for issuing a license, or on a license holder based on:

(1) the person's intemperate use of drugs or alcohol directly resulting from habituation or addiction caused by medical care or treatment provided by a physician;

(2) the person's intemperate use of drugs or alcohol during the five years preceding the date of the report that could adversely affect the person's ability to safely practice as a surgical assistant, if the person:

(A) reported the use; and

(B) has not previously been the subject of a substance abuse related order of the medical board;

(3) a judgment by a court that the person is of unsound mind; or

(4) the results of a mental or physical examination, or an admission by the person, indicating that the person suffers from a potentially dangerous limitation or an inability to practice as a surgical assistant with reasonable skill and safety because of illness or any other physical or mental condition.

Sec. 206.306. EFFECT OF REHABILITATION ORDER. (a) A rehabilitation order imposed under Section 206.305 is a nondisciplinary private order. If entered into by agreement, the order is an agreed disposition or settlement agreement for purposes of civil litigation and is exempt from Chapter 552, Government Code.

(b) The rehabilitation order must contain findings of fact and conclusions of law. The order may impose a license revocation or suspension, a period of probation or restriction, or any other sanction authorized by this chapter or agreed to by the medical board and the person subject to the order.

(c) A violation of a rehabilitation order may result in disciplinary action under this chapter or under the terms of the agreed order.

(d) A violation of a rehabilitation order is grounds for disciplinary action based on:

(1) unprofessional or dishonorable conduct; or  
 (2) any provision of this chapter that applies to the conduct that resulted in the violation.

Sec. 206.307. AUDIT OF REHABILITATION ORDER. (a) The medical board shall maintain a rehabilitation order imposed under Section 206.305 in a confidential file. The file is subject to an independent audit by the state auditor or a private auditor with whom the board contracts to perform the audit to ensure that only qualified license holders are subject to rehabilitation orders.

(b) An audit may be performed at any time at the direction of the medical board. The medical board shall ensure that an audit is performed at least once in each three-year period.

(c) The audit results are a matter of public record and shall be reported in a manner that maintains the confidentiality of each license holder who is the subject of a rehabilitation order.

Sec. 206.308. SUBPOENA. (a) The executive director, the director's designee, or the secretary-treasurer of the board may issue a subpoena or subpoena duces tecum:

(1) to conduct an investigation or a contested case proceeding related to:

(A) alleged misconduct by a surgical assistant;

(B) an alleged violation of this chapter or another law related to the practice of a surgical assistant; or

(C) the provision of health care under this chapter;

(2) for purposes of determining whether to issue, suspend, restrict, or revoke a license under this chapter; or

(3) for purposes of determining whether to issue or deny a license under this chapter.

(b) Failure to timely comply with a subpoena issued under this section is a ground for:

(1) disciplinary action by the medical board or another licensing or regulatory agency with jurisdiction over the person subject to the subpoena; and

(2) denial of a license application.

Sec. 206.309. PROTECTION OF PATIENT IDENTITY. In a disciplinary investigation or proceeding conducted under this chapter, the medical board shall protect the identity of each patient whose medical records are examined and used in a public proceeding unless the patient:

(1) testifies in the public proceeding; or

(2) submits a written release in regard to the patient's records or identity.

Sec. 206.310. RULES FOR DISCIPLINARY PROCEEDINGS. Rules of practice adopted under this chapter by the medical board under Section 2001.004, Government Code, applicable to the proceedings for a disciplinary action may not conflict with rules adopted by the State Office of Administrative Hearings.

Sec. 206.311. REQUIRED SUSPENSION OF INCARCERATED SURGICAL ASSISTANT. Regardless of the offense, the medical board shall suspend the license of a surgical assistant serving a prison term in a state or federal penitentiary during the term of the incarceration.

Sec. 206.312. TEMPORARY SUSPENSION. (a) The president of the medical board, with medical board approval, shall appoint a three-member disciplinary panel consisting of medical board members to determine whether a surgical assistant's license should be temporarily suspended.

(b) If the disciplinary panel determines from the evidence or information presented to the panel that a person licensed to practice as a surgical assistant would, by the person's continuation in practice, constitute a continuing threat to the public welfare, the disciplinary panel shall temporarily suspend the license of that person.

(c) A license may be suspended under this section without notice or hearing on the complaint if:

(1) institution of proceedings for a hearing before the medical board is initiated simultaneously with the temporary suspension; and

(2) a hearing is held under Chapter 2001, Government Code, and this chapter as soon as possible.

(d) Notwithstanding Chapter 551, Government Code, the disciplinary panel may hold a meeting by telephone conference call if immediate action is required and convening the disciplinary panel at one location is inconvenient for any member of the panel.

[Sections 206.313-206.350 reserved for expansion]

#### SUBCHAPTER H. ADMINISTRATIVE PENALTY

Sec. 206.351. ADMINISTRATIVE PENALTY. (a) The medical board by order may impose an administrative penalty against a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter.

(b) The penalty may be in an amount not to exceed \$5,000. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.

(c) The medical board shall base the amount of the penalty on:

(1) the severity of patient harm;

(2) the severity of economic harm to any person;

(3) the severity of any environmental harm;

(4) the increased potential for harm to the public;

(5) any attempted concealment of misconduct;

(6) any premeditated or intentional misconduct;

(7) the motive for the violation;

(8) any prior misconduct of a similar or related nature;

(9) the license holder's disciplinary history;

(10) any prior written warnings or written admonishments from any government agency or official regarding statutes or rules relating to the misconduct;

(11) whether the violation is of a board order;

(12) the person's failure to implement remedial measures to correct or mitigate harm from the misconduct;

(13) the person's lack of rehabilitative potential or likelihood of future misconduct of a similar nature;

(14) any relevant circumstances increasing the seriousness of the misconduct; and

(15) any other matter that justice may require.

(d) The medical board by rule shall prescribe the procedures by which

it may impose an administrative penalty. A proceeding under this section is subject to Chapter 2001, Government Code.

(e) If the medical board by order determines that a violation has occurred and imposes an administrative penalty, the medical board shall give notice to the person of the order. The notice must include a statement of the person's right to judicial review of the order.

SECTION 2. Subsection (B), Section 2, Chapter 397, Acts of the 54th Legislature, Regular Session, 1955 (Article 3.70-2, Vernon's Texas Insurance Code), is amended to read as follows:

(B) No policy of accident and sickness insurance shall make benefits contingent upon treatment or examination by a particular practitioner or by particular practitioners of the healing arts hereinafter designated unless such policy contains a provision designating the practitioner or practitioners who will be recognized by the insurer and those who will not be recognized by the insurer. Such provision may be located in the "Exceptions" or "Exceptions and Reductions" provisions, or elsewhere in the policy, or by endorsement attached to the policy, at the insurer's option. In designating the practitioners who will and will not be recognized, such provision shall use the following terms: Doctor of Medicine, Doctor of Osteopathy, Doctor of Dentistry, Doctor of Chiropractic, Doctor of Optometry, Doctor of Podiatry, Licensed Audiologist, Licensed Speech-language Pathologist, Doctor in Psychology, Licensed Master Social Worker—Advanced Clinical Practitioner, Licensed Dietitian, Licensed Professional Counselor, Licensed Marriage and Family Therapist, Licensed Chemical Dependency Counselor, Licensed Hearing Instrument Fitter and Dispenser, Advanced Practice Nurse, Physician Assistant, Licensed Occupational Therapist, Licensed Physical Therapist, Licensed Acupuncturist, ~~and~~ Licensed Psychological Associate, and Licensed Surgical Assistant.

For purposes of this Act, such designations shall have the following meanings:

Doctor of Medicine: One licensed by the Texas State Board of Medical Examiners on the basis of the degree "Doctor of Medicine";

Doctor of Osteopathy: One licensed by the Texas State Board of Medical Examiners on the basis of the degree of "Doctor of Osteopathy";

Doctor of Dentistry: One licensed by the State Board of Dental Examiners;

Doctor of Chiropractic: One licensed by the Texas Board of Chiropractic Examiners;

Doctor of Optometry: One licensed by the Texas Optometry Board;

Doctor of Podiatry: One licensed by the Texas State Board of Podiatric Medical Examiners;

Licensed Audiologist: One with a master's or doctorate degree in audiology from an accredited college or university and who is licensed as an audiologist by the State Board of Examiners for Speech-Language Pathology and Audiology;

Licensed Speech-language Pathologist: One with a master's or doctorate degree in speech pathology or speech-language pathology from an accredited college or university and who is licensed as a speech-language pathologist by the State Board of Examiners for Speech-Language Pathology and Audiology;



Doctor in Psychology: One licensed by the Texas State Board of Examiners of Psychologists and certified as a Health Service Provider;

Licensed Master Social Worker—Advanced Clinical Practitioner: One licensed by the Texas State Board of Social Worker Examiners as a Licensed Master Social Worker with the order of recognition of Advanced Clinical Practitioner;

Licensed Dietitian: One licensed by the Texas State Board of Examiners of Dietitians;

Licensed Professional Counselor: One licensed by the Texas State Board of Examiners of Professional Counselors;

Licensed Marriage and Family Therapist: One licensed by the Texas State Board of Examiners of Marriage and Family Therapists;

Licensed Chemical Dependency Counselor: One licensed by the Texas Commission on Alcohol and Drug Abuse;

Licensed Hearing Instrument Fitter and Dispenser: One licensed by the State Committee of Examiners in the Fitting and Dispensing of Hearing Instruments;

Advanced Practice Nurse: One licensed by the Board of Nurse Examiners as a registered nurse and recognized by that board as an advanced practice nurse;

Physician Assistant: One licensed by the Texas State Board of Physician Assistant Examiners;

Licensed Occupational Therapist: One licensed by the Texas Board of Occupational Therapy Examiners;

Licensed Physical Therapist: One licensed by the Texas Board of Physical Therapy Examiners;

Licensed Acupuncturist: One licensed by the Texas State Board of Medical Examiners as an acupuncturist; ~~and~~

Licensed Psychological Associate: One licensed by the Texas State Board of Examiners of Psychologists and practicing under the supervision of a licensed psychologist; and

Licensed Surgical Assistant: One licensed by the Texas State Board of Medical Examiners as a surgical assistant.

SECTION 3. Section 1, Article 21.52, Insurance Code, is amended by adding Subsection (u) to read as follows:

(u) "Surgical assistant" means a person licensed by the Texas State Board of Medical Examiners as a surgical assistant.

SECTION 4. Section 3(a), Article 21.52, Insurance Code, as amended by Chapters 428 and 888, Acts of the 76th Legislature, Regular Session, 1999, is amended to read as follows:

(a) Any person who is issued, who is a party to, or who is a beneficiary under any health insurance policy delivered, renewed, or issued for delivery in this state by any insurance company, association, or organization to which this article applies may select:

(1) a licensed doctor of podiatric medicine, a licensed dentist, or a doctor of chiropractic to perform the medical or surgical services or procedures scheduled in the policy which fall within the scope of the license of that practitioner;

(2) a licensed doctor of optometry to perform the services or procedures scheduled in the policy which fall within the scope of the license of that doctor of optometry;

(3) an occupational therapist to provide the services scheduled in the policy which fall within the scope of the license of that occupational therapist;

(4) a physical therapist to provide the services scheduled in the policy which fall within the scope of the license of that physical therapist;

(5) a licensed audiologist to measure hearing for the purpose of determining the presence or extent of a hearing loss and to provide aural rehabilitation services to a person with a hearing loss if those services or procedures are scheduled in the policy;

(6) a licensed speech-language pathologist to evaluate speech and language and to provide habilitative and rehabilitative services to restore speech or language loss or to correct a speech or language impairment if those services or procedures are scheduled in the policy;

(7) a licensed master social worker—advanced clinical practitioner to provide the services that fall within the scope of the license of such certified practitioner and which are specified as services within the terms of the policy of insurance, including the provision of direct, diagnostic, preventive, or clinical services to individuals, families, and groups whose functioning is threatened or affected by social or psychological stress or health impairment, if those services or procedures are scheduled in the policy;

(8) a licensed dietitian including a provisional licensed dietitian under a licensed dietitian's supervision to provide the services that fall within the scope of the license of that dietitian if those services are scheduled in the policy;

(9) a licensed professional counselor to provide the services that fall within the scope of the license of that professional if those services are scheduled in the policy;

(10) a licensed marriage and family therapist to provide the services that fall within the scope of the license of that professional if those services are scheduled in the policy;

(11) a psychologist to perform the services or procedures scheduled in the policy that fall within the scope of the license of that psychologist;

(12) a licensed chemical dependency counselor to perform the services or procedures scheduled in the policy that fall within the scope of the license of that practitioner;

(13) [~~(12)~~] a licensed acupuncturist to perform the services or procedures scheduled in the policy that fall within the scope of the license of that practitioner;

(14) [~~(13)~~] an advanced practice nurse to provide the services scheduled in the policy that fall within the scope of the license of that practitioner;

(15) [~~(14)~~] a physician assistant to provide the services scheduled in the policy that fall within the scope of the license of that practitioner;

(16) [~~(15)~~] a licensed hearing instrument fitter and dispenser to provide the services or procedures scheduled in the policy that fall within the scope of the license of that practitioner;

(17) a licensed surgical assistant to provide the services or procedures scheduled in the policy that fall within the scope of the license of that practitioner; or

(18) [(16)] a licensed psychological associate to provide the services that fall within the scope of the license of that professional if those services are scheduled in the policy.

SECTION 5. Section 3(d), Article 21.52, Insurance Code, is amended to read as follows:

(d) There shall not be any classification, differentiation, or other discrimination in the payment schedule or the payment provisions in a health insurance policy, nor in the amount or manner of payment or reimbursement thereunder, between scheduled services or procedures when performed by a doctor of podiatric medicine, a doctor of optometry, a doctor of chiropractic, a licensed dentist, an occupational therapist, a physical therapist, a licensed audiologist, a licensed speech-language pathologist, a licensed master social worker—advanced clinical practitioner, a licensed dietitian, a licensed professional counselor, a licensed marriage and family therapist, a psychologist, a licensed psychological associate, a licensed chemical dependency counselor, an advanced practice nurse to provide the services scheduled in the policy, a physician assistant to provide the services scheduled in the policy, a licensed acupuncturist, or a licensed hearing instrument fitter and dispenser which fall within the scope of that practitioner's license or certification and the same services or procedures when performed by any other practitioner of the healing arts whose services or procedures are covered by the policy. However, a health insurance policy may provide for a different amount of payment or reimbursement for scheduled services or procedures when performed by an advanced practice nurse, licensed surgical assistant, or physician assistant provided the reimbursement methodology used to calculate the payment for the service or procedure is the same methodology used to calculate the payment when the service or procedure is provided by a physician.

SECTION 6. (a) Notwithstanding Section 206.201 and Subchapter H, Chapter 206, Occupations Code, as added by this Act, a person is not required to obtain a license under Chapter 206, Occupations Code, as added by this Act, until September 1, 2002.

(b) The Texas State Board of Medical Examiners shall adopt rules under Chapter 206, Occupations Code, as added by this Act, not later than January 1, 2002.

SECTION 7. Section 2, Chapter 397, Acts of the 54th Legislature, Regular Session, 1955 (Article 3.70-2, Vernon's Texas Insurance Code), and Article 21.52, Insurance Code, as amended by this Act, apply only to an insurance policy, contract, or evidence of coverage delivered, issued for delivery, or renewed on or after January 1, 2003. A policy, contract, or evidence of coverage delivered, issued for delivery, or renewed before January 1, 2003, is governed by the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 8. This Act takes effect September 1, 2001.

### **Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **CSHB 1183** (senate committee printing) as follows:

(1) In SECTION 1 of the bill, strike proposed Subsection (a), Section 206.052, Occupations Code (page 2, lines 2 through 9), and substitute the following:

(a) The advisory committee consists of six members appointed by the president of the medical board. One member must be a registered perioperative nurse with at least five years of clinical experience as a registered perioperative nurse. Each of the remaining members must be:

(1) a practicing surgical assistant who has at least five years of clinical experience as a surgical assistant; or

(2) a physician licensed in this state who supervises a surgical assistant.

(2) In SECTION 1 of the bill, in proposed Subsection (b)(2), Section 206.205, Occupations Code (page 6, line 30), strike "after" and substitute "since".

(3) Between SECTION 5 and 6 of the bill (page 15, between lines 2 and 3), insert the following appropriately numbered section:

SECTION \_\_. Section 32.027, Human Resources Code, is amended by adding Subsection (j) to read as follows:

(j) The department shall assure that a recipient of medical assistance under this chapter may select a surgical assistant licensed under Chapter 206, Occupations Code, to perform any health care service or procedure covered under the medical assistance program if:

(1) the selected surgical assistant is authorized by law to perform the service or procedure; and

(2) the physician requests that the service or procedure be performed by the surgical assistant.

(4) Renumber the sections of the bill appropriately.

### **HB 1188 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1188**, A bill to be entitled An Act relating to the rights of a public school teacher who is assaulted during the performance of the teacher's regular duties.

On motion of Representative Telford, the house concurred in the senate amendments to **HB 1188** by (Record 553): 129 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Elkins; Ellis; Farabee; Farrar; Flores; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Pickett; Pitts; Puente; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smithee; Solis;

Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; West.

Absent, Excused, Committee Meeting — Dunnam; Hardcastle; Olivo; Sadler; Smith.

Absent — Carter; Eiland; Gray; Hope; King, T.; Moreno, P.; Oliveira; Ramsay; Turner, S.

### STATEMENT OF VOTE

When Record No. 553 was taken, I was in the house but away from my desk. I would have voted yes.

Hope

### Senate Committee Substitute

**CSHB 1188**, A bill to be entitled An Act relating to the rights of a public school teacher who is assaulted during the performance of the teacher's regular duties.

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

SECTION 1. Section 22.003, Education Code, is amended by adding Subsection (c) to read as follows:

(c) For purposes of Subsection (b), an employee of a school district is physically assaulted if the person engaging in the conduct causing injury to the employee:

(1) could be prosecuted for assault; or

(2) could not be prosecuted for assault only because the person's age or mental capacity makes the person a nonresponsible person for purposes of criminal liability.

SECTION 2. This Act applies beginning with the 2001-2002 school year.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

### HB 1200 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS

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

**HB 1200**, A bill to be entitled An Act relating to the enactment of the Texas Economic Development Act, authorizing certain ad valorem tax incentives for economic development, including authorizing school districts to provide tax relief for certain corporations and limited liability companies that make large investments that create jobs in this state, to authorizing the imposition of certain impact fees, and to continuing the Property Redevelopment and Tax Abatement Act.

Representative Brimer moved that the house concur in the senate amendments to **HB 1200**.

Representative S. Turner offered a substitute motion that the house not concur and that a conference committee be requested to adjust the differences between the two houses on the bill.

Representative Brimer moved to table the substitute motion.

A record vote was requested.

The motion to table prevailed by (Record 554): 92 Yeas, 36 Nays, 3 Present, not voting.

Yeas — Alexander; Allen; Averitt; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Callegari; Capelo; Carter; Chisum; Christian; Clark; Cook; Corte; Counts; Crabb; Craddock; Davis, J.; Delisi; Denny; Driver; Dukes; Ehrhardt; Elkins; Ellis; Farabee; Flores; George; Geren; Glaze; Goodman; Goolsby; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Heflin; Hilderbran; Hill; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Keel; Keffer; King, P.; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Madden; Marchant; McCall; McReynolds; Merritt; Miller; Morrison; Nixon; Noriega; Oliveira; Pickett; Pitts; Ramsay; Reyna, E.; Ritter; Smithee; Solomons; Swinford; Talton; Telford; Truitt; Turner, B.; Uher; Walker; Williams; Wise; Wohlgenuth; Wolens; Woolley; Yarbrough; Zbranek.

Nays — Bailey; Burnam; Chavez; Davis, Y.; Deshotel; Dutton; Edwards; Farrar; Garcia; Gray; Hinojosa; Hochberg; Hodge; Jones, J.; King, T.; Kitchen; Longoria; Luna; Martinez Fischer; Maxey; McClendon; Menendez; Moreno, J.; Naishtat; Najera; Puente; Raymond; Salinas; Shields; Solis; Thompson; Tillery; Turner, S.; Uresti; Villarreal; Wilson.

Present, not voting — Mr. Speaker; Gallego(C); Reyna, A.

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; West.

Absent, Excused, Committee Meeting — Dunnam; Hardcastle; Olivo; Sadler; Smith.

Absent — Coleman; Crownover; Danburg; Eiland; Giddings; Hawley; Moreno, P.; Mowery; Seaman.

### STATEMENT OF VOTE

I was shown voting yes on Record No. 554. I intended to vote no.

Ehrhardt

The motion to concur in the senate amendments to **HB 1200** prevailed.

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

Amend **HB 1200** as follows:

(1) Page 28, between lines 2 and 3, insert a new SECTION 8 to read as follows and renumber the subsequent SECTIONS accordingly:

SECTION 8. Section 42.302, Education Code, is amended by adding subsection (d) to read as follows:

(d) For purposes of this section, school district taxes for which credit is granted under Subchapter D, Chapter 313, Tax Code, are considered taxes collected by the school district as if the taxes were paid when the credit for the taxes was granted.

(2) Page 21, line 8, strike "each of the first eight" and substitute "the second and subsequent six".

(3) Page 21, line 11, after the words "equal to" strike "one-eighth" and insert "one-seventh".

(4) Page 7, line 4 between "except for" and "equipment", insert "new".

(5) Page 6, lines 24 and 25, strike "," and at least 80 percent of all the new jobs must be qualifying jobs".

(6) Page 10, between lines 1 and 2 add a new subsection (c) to read as follows and re-letter subsequent subsections accordingly:

(c) To be eligible for a limitation on appraised value under this subchapter, at least 80% of all the new jobs created by the property owner must be qualified jobs as defined by Section 313.021(3).

(7) On page 18, lines 5-7, strike "In this subchapter, 'qualified property' means land on which the owner of the land proposes to create at least 10 qualifying jobs." and substitute "For purposes of this subchapter, a property owner is required to create only at least 10 new jobs on the owner's qualified property. At least 80 percent of all the new jobs created must be qualifying jobs as defined by Section 313.021(3)."

#### **Senate Amendment No. 2 (Senate Floor Amendment No. 1 - 2nd Reading)**

Amend **HB 1200** on page 10, line 68 to strike "2007" and insert "2005".

#### **Senate Amendment No. 3 (Senate Floor Amendment No. 2 - 2nd Reading)**

Amend **HB 1200** as follows:

(1) Amend SECTION 1 (committee report page 8, line 6) by inserting between "territory" and "in" the following:

"in a strategic investment area, as defined by sec. 171.721, Tax Code, or".

#### **Senate Amendment No. 4 (Senate Floor Amendment No. 1 - 3rd Reading)**

Amend **HB 1200**, Senate Committee Printing, as follows:

On page 8, lines 14-15, strike "less than 15 percent.", and insert "not more than three percent per annum."

### **HB 1214 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1214**, A bill to be entitled An Act relating to the regulation of certain occupations by, and other powers and duties of, the Texas Department of Licensing and Regulation.

On motion of Representative Pitts, the house concurred in the senate amendments to **HB 1214** by (Record 555): 132 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez;

Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Pickett; Pitts; Puente; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smithee; Solis; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; Williams; Wise; Wohlgemuth; Wolens; Yarbrough; Zbraneck.

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

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; West.

Absent, Excused, Committee Meeting — Dunnam; Hardcastle; Olivo; Sadler; Smith.

Absent — Janek; Moreno, P.; Ramsay; Solomons; Wilson; Woolley.

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

Amend **HB 1214** by striking SECTION 2 of the bill, amended Section 5(h), Article 9102, Revised Statutes (house engrossment page 2, lines 4-16), and substituting the following:

SECTION 2. Section 5(h), Article 9102, Revised Statutes, is amended to read as follows:

(h) The commission may also impose an administrative penalty under Subchapter F, Chapter 51, Occupations Code [~~Article 9100, Revised Statutes~~], on a building owner for a violation of this article or a rule adopted under this article. Each day that the violation is not corrected constitutes a separate violation. When the commission considers imposing an administrative penalty under this section, the commission shall first notify a person responsible for the building and allow that person 90 days to bring the building into compliance. The commission shall have the authority to extend the 90-day period when circumstances justify such extension.

### **HB 1241 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1241**, A bill to be entitled An Act relating to the purchase of diesel fuel by certain persons using a signed statement.

On motion of Representative Counts, the house concurred in the senate amendments to **HB 1241**.



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

(1) Amend **HB 1241** by adding a new SECTION 1 to read as follows:

SECTION 1. Amend Section 153.001, Tax Code, by adding a new subsection (37) to read as follows:

(37) "Agricultural purposes" means a purpose associated with the following activities: cultivating the soil, producing crops for human food, animal feed, or planting seed or for the production of fibers; floriculture, viticulture, silviculture, and horticulture, including the cultivation of plants in containers or non-soil media; raising, feeding or keeping livestock or other animals for the production of food or fiber, leather, pelts, or other tangible products having a commercial value; wildlife management; and planting cover crops, including cover crops cultivated for transplantation, or leaving land idle for the purpose of participating in any governmental program or normal crop or livestock rotation procedure.

(2) Renumber subsequent sections accordingly.

**HB 1243 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1243**, A bill to be entitled An Act relating to monitoring by the Texas Workforce Commission of the long-term employment history of certain former recipients of public assistance.

On motion of Representative Villarreal, the house concurred in the senate amendments to **HB 1243**.

**Senate Committee Substitute**

**CSHB 1243**, A bill to be entitled An Act relating to monitoring by the Texas Workforce Commission of the long-term employment history of certain former recipients of public assistance.

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

SECTION 1. Subchapter A, Chapter 302, Labor Code, is amended by adding Section 302.009 to read as follows:

Sec. 302.009. MONITORING OF EMPLOYMENT HISTORY OF CERTAIN FORMER RECIPIENTS OF PUBLIC ASSISTANCE. (a) The division shall develop and implement a system to monitor the long-term employment history of persons who are former recipients of assistance under employment programs operated by the division under:

(1) Chapter 31, Human Resources Code; and

(2) 7 U.S.C. Section 2015(d).

(b) In designing the system, the division shall cooperate with the Texas Department of Human Services.

(c) For each former recipient of assistance, the system must be designed to:

(1) establish a baseline earnings measure based on the recipient's earnings on leaving the employment program;

(2) track the wage and employment outcomes of the recipient for a period of up to but not more than three years;

(3) provide, to the extent possible, information regarding the recipient's household composition and earnings;

(4) provide, to the extent possible, information regarding additional training or education received by the recipient;

(5) compute:

(A) the recipient's individual earnings as a percentage of the federal poverty level; and

(B) if data is available, the recipient's household earnings as a percentage of the federal poverty level; and

(C) if data is available, the recipient's income as a percentage of the federal poverty level adjusted for the total value of any public assistance utilized by the recipient's household, including, but not limited to, medical assistance, food stamps, child care, transportation assistance, the federal earned income tax credit, and job training activities; and

(6) compare the recipient's individual earnings to a self-sufficiency standard similar to that required under 20 C.F.R. Section 663.230.

(d) The commission shall report to the legislature not later than January 1 of each odd-numbered year regarding the information obtained from the system developed under Subsection (a). The report required under this subsection may be made separately or as a part of any other required report submitted to the legislature by the commission.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

### **HB 1258 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1258**, A bill to be entitled An Act relating to the ratification of the creation of and to the administration, powers, duties, operation, and financing of the Middle Pecos Groundwater Conservation District.

On motion of Representative Walker, the house concurred in the senate amendments to **HB 1258**.

#### **Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 1258** by adding subsection (e) and (f) to SECTION 4 of the bill (Committee Printing, page 1, line 43):

"(e) In addition to other fees assessed by the district, the district may assess an additional fee on groundwater transferred out of the district not to exceed ten percent of the amount of the fee assessed for the production of water for use within the district.

(f) The district may not impose any additional rules or regulations on the production of groundwater for use outside of the district than imposed upon production for in-district use."

**HB 1285 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1285**, A bill to be entitled An Act relating to providing information to a municipality on sales and use taxes paid to the municipality.

On motion of Representative Brimer, the house concurred in the senate amendments to **HB 1285** by (Record 556): 136 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Elkins; Ellis; Farabee; Farrar; Flores; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Pickett; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; West.

Absent, Excused, Committee Meeting — Dunnam; Hardcastle; Olivo; Sadler; Smith.

Absent — Eiland; Moreno, P.

**Senate Committee Substitute**

**CSHB 1285**, A bill to be entitled An Act relating to providing information to a municipality on sales and use taxes paid to the municipality.

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

SECTION 1 Section 321.3022, Tax Code, is amended to read as follows:

Sec. 321.3022. TAX INFORMATION. (a) The comptroller on request shall provide to a municipality that has adopted a tax under this chapter and that has a population of not more than 275,000 information relating to the amount of tax paid to the municipality under this chapter during the preceding or current calendar year by each person doing business in the municipality who annually remits to the comptroller state and local sales tax payments of more than \$100,000.

(b) The comptroller on request shall provide to a municipality that has adopted a tax under this chapter information relating to the amount of tax paid to the municipality under this chapter during the preceding or current calendar year by each person doing business in an area, as defined by the municipality, that is part of:

- (1) an interlocal agreement;
- (2) a tax abatement agreement;
- (3) a reinvestment zone;
- (4) a tax increment financing district;
- (5) a revenue sharing agreement;
- (6) an enterprise zone;
- (7) a neighborhood empowerment zone;
- (8) any other agreement, zone, or district similar to those listed in

Subdivisions (1)-(7); or

(9) any area defined by the municipality for the purpose of economic forecasting.

(c) The comptroller shall provide the information under Subsection (b) as an aggregate total for all persons doing business in the defined area without disclosing individual tax payments.

(d) If the request for information under Subsection (b) involves not more than three persons doing business in the defined area who remit taxes under this chapter, the comptroller shall refuse to provide the information to the municipality unless the comptroller receives permission from each of the persons allowing the comptroller to provide the information to the municipality as requested.

(e) A request for information under this section must be made in writing by the municipality's mayor or chief administrative officer.

(f) [(e)] Information received by a municipality under this section is confidential, is not open to public inspection, and may be used only for the purpose of economic forecasting or for the purpose described in Subsection (g).

(g) Information received by a municipality under Subsection (b) may be used by the municipality to assist in determining revenue sharing under a revenue sharing agreement or other similar agreement.

(h) [(d)] The comptroller may set and collect from a municipality reasonable fees to cover the expense of compiling and providing information under this section.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

### **HB 1287 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1287**, A bill to be entitled An Act relating to the establishment of drug court programs and to a study of drug court programs by the Criminal Justice Policy Council.

On motion of Representative Thompson, the house concurred in the senate amendments to **HB 1287**.

**Senate Committee Substitute**

**CSHB 1287**, A bill to be entitled An Act relating to the establishment of drug court programs and to a study of drug court programs by the Criminal Justice Policy Council.

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

SECTION 1. Subtitle B, Title 6, Health and Safety Code, is amended by adding Chapter 469 to read as follows:

CHAPTER 469. DRUG COURT PROGRAMS

Sec. 469.001. DRUG COURT PROGRAM DEFINED. In this chapter, "drug court program" means a program that has the following essential characteristics:

(1) the integration of alcohol and other drug treatment services in the processing of cases in the judicial system;

(2) the use of a nonadversarial approach involving prosecutors and defense attorneys to promote public safety and to protect the due process rights of program participants;

(3) early identification and prompt placement of eligible participants in the program;

(4) access to a continuum of alcohol, drug, and other related treatment and rehabilitative services;

(5) monitoring of abstinence through weekly alcohol and other drug testing;

(6) a coordinated strategy to govern program responses to participants' compliance;

(7) ongoing judicial interaction with program participants;

(8) monitoring and evaluation of program goals and effectiveness;

(9) continuing interdisciplinary education to promote effective program planning, implementation, and operations; and

(10) development of partnerships with public agencies and community organizations.

Sec. 469.002. AUTHORITY TO ESTABLISH PROGRAM. Except as provided by Section 469.006, the commissioners court of a county may establish a drug court program for persons arrested for, charged with, or convicted of:

(1) an offense in which an element of the offense is the use or possession of alcohol or the use, possession, or sale of a controlled substance, a controlled substance analogue, or marihuana; or

(2) an offense in which the use of alcohol or a controlled substance is suspected to have significantly contributed to the commission of the offense and the offense did not involve:

(A) carrying, possessing, or using a firearm or other dangerous weapon;

(B) the use of force against the person of another; or

(C) the death of or serious bodily injury to another.

Sec. 469.003. OVERSIGHT. (a) The lieutenant governor and the speaker of the house of representatives may assign to appropriate legislative committees duties relating to the oversight of drug court programs established under Section 469.002.

(b) A legislative committee or the governor may request the state auditor to perform a management, operations, or financial or accounting audit of a drug court program established under Section 469.002.

Sec. 469.004. FEES. (a) A drug court program established under Section 469.002 may collect from a participant in the program:

(1) a reasonable program fee not to exceed \$1,000, which may be paid on a periodic basis or on a deferred payment schedule at the discretion of the judge, magistrate, or program director administering the program; and

(2) a urinalysis testing and counseling fee:

(A) based on the participant's ability to pay; and

(B) in an amount necessary to cover the costs of the testing and counseling.

(b) A drug court program may require a participant to pay all treatment costs incurred while participating in the program, based on the participant's ability to pay.

Sec. 469.005. CRIMINAL JUSTICE POLICY COUNCIL STUDY. (a) The Criminal Justice Policy Council shall conduct a study of drug court programs in Texas and issue a report not later than January 15, 2003, to the speaker of the house of representatives, the lieutenant governor, the House Appropriations Committee, the Senate Finance Committee, the House Committee on Judicial Affairs, the Senate Committee on Jurisprudence, the House Committee on Criminal Jurisprudence, and the Senate Committee on Criminal Justice.

(b) The report shall examine the effectiveness of presently operating drug court programs and make recommendations regarding potential expansion and improvements.

(c) This section expires on June 1, 2003.

Sec. 469.006. PROGRAM IN CERTAIN COUNTIES MANDATORY. (a) The commissioners court of a county with a population of more than 550,000 shall establish a drug court program under Section 469.002.

(b) A drug court program required under this section to be established must have at least 100 participants during the first four months in which the program is operating.

(c) A county required under this section to establish a drug court program shall apply to the federal government for any funds available to pay the costs of the program. The criminal justice division of the governor's office may assist a county in applying for federal funds as required by this subsection, including providing financial assistance to the county.

(d) A county that does not establish a drug court program as required by this section is ineligible to receive from the state:

(1) funds for a community supervision and corrections department;  
and

(2) grants administered by the criminal justice division of the governor's office.

Sec. 469.007. USE OF OTHER DRUG AND ALCOHOL AWARENESS PROGRAMS. In addition to using a drug court program established under Section 469.002, the commissioners court of a county or a court may use other drug awareness or drug and alcohol driving awareness programs to treat persons convicted of drug or alcohol related offenses.

SECTION 2. (a) Except as provided by Subsection (b) of this section, the

commissioners court of a county shall establish a drug court program as required by Section 469.006, Health and Safety Code, as added by this Act, not later than September 1, 2002.

(b) A county is required under Section 469.006, Health and Safety Code, as added by this Act, to establish a drug court program only if the county receives federal funding specifically for that purpose or the legislature appropriates money specifically for that purpose. If the county does not receive federal funding specifically for that purpose and the legislature does not appropriate money specifically for that purpose, a county may, but is not required to, establish a drug court program under Section 469.002, Health and Safety Code, as added by this Act, using other money available for that purpose.

SECTION 3. This Act takes effect September 1, 2001.

### **HB 1333 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1333**, A bill to be entitled An Act relating to making emergency appropriations.

On motion of Representative Heflin, the house concurred in the senate amendments to **HB 1333** by (Record 557): 134 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Pickett; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smithee; Solis; Solomons; Swinford; Talton; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

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

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; West.

Absent, Excused, Committee Meeting — Dunnam; Hardcastle; Olivo; Sadler; Smith.

Absent — Ehrhardt; Isett; Moreno, P.; Telford.

The chair stated that the house concurred in senate amendments to **HB 1333** subject to the provisions of Article III, Section 49a, of the Texas Constitution.

### **Senate Committee Substitute**

**CSHB 1333**, A bill to be entitled An Act relating to making emergency appropriations.

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

SECTION 1. TEXAS DEPARTMENT OF HEALTH: HIGHER THAN EXPECTED MEDICAID COSTS AND LESS FAVORABLE FEDERAL PERCENTAGE MATCH RATE. (a) The unencumbered amounts listed below that were appropriated by Chapter 1589, Acts of the 76th Legislature, Regular Session, 1999 (the General Appropriations Act), from the general revenue fund to the respective agencies for one or both fiscal years of the fiscal biennium ending August 31, 2001, totalling \$337,777,000, are transferred to the Texas Department of Health for the remainder of the fiscal year ending August 31, 2001, for the purpose of providing services under the state Medicaid program:

(1) various agencies identified by the comptroller of public accounts, subject to Section 8 of this Act \$154,700,000

(2) the Texas Education Agency for student success \$ 10,200,000

(3) the Texas Education Agency that may be spent for the Foundation School Program, from recovery of fiscal year 2000 overpayments to school districts \$100,000,000

(4) the Texas Public Finance Authority that may be spent for bond debt service, appropriated in Article II of the General Appropriations Act \$ 2,000,000

(5) the Texas Public Finance Authority that may be spent for bond debt service, appropriated in Article V of the General Appropriations Act \$ 14,000,000

(6) the State Soil and Water Conservation Board that may be spent for financial and technical assistance \$ 2,000,000

(7) the State Soil and Water Conservation Board that may be spent for pollution abatements \$ 400,000

(8) the Texas Historical Commission that may be spent for archeological protection \$ 500,000

(9) the Texas Historical Commission that may be spent for the evaluation and interpretation of resources \$ 500,000

(10) The University of Texas at Austin that may be spent for the TxPharm program \$ 478,000

(11) Texas Southern University that may be spent for the TxPharm program \$ 549,000

(12) the University of Houston that may be spent for the TxPharm program \$ 460,000

(13) the Texas Higher Education Coordinating Board that may be spent for Texas Excellence access and success grants \$ 39,000,000

(14) the Texas Education Agency for support programs \$ 1,100,000

(15) the Texas Education Agency for improving educator performance \$ 8,000,000



(16) the General Services Commission that may be spent for property acquisition, repair, and renovation \$ 2,790,000

(17) the General Services Commission that may be spent for computer acquisition \$ 1,100,000

(b) The sum of \$92,300,000, originally derived as interest from the suspense account of the comptroller of public accounts as described by **SB 848**, Acts of the 77th Legislature, Regular Session, 2001, is appropriated from the general revenue fund to the Texas Department of Health for the remainder of the fiscal year ending August 31, 2001, for the purpose of providing services under the state Medicaid program.

(c) From the amounts appropriated by Chapter 396, Acts of the 76th Legislature, Regular Session, 1999 (**SB 4**), from the general revenue fund to the Texas Education Agency for one or both fiscal years of the fiscal biennium ending August 31, 2001, that may be spent for various purposes, the unencumbered amount of \$47,500,000 is transferred to the Texas Department of Health for the remainder of the fiscal year ending August 31, 2001, for the purpose of providing services under the state Medicaid program.

(d) In addition to amounts previously appropriated for the current fiscal biennium, the sum of \$6,100,000 in earned federal funds is appropriated from the Rehabilitation Commission Federal Fund to the Texas Department of Health for the remainder of the fiscal year ending August 31, 2001, for the purpose of providing services under the state Medicaid program.

(e) In addition to amounts previously appropriated for the current fiscal biennium, the sum of \$6,267,000 in earned federal funds is appropriated from the general revenue fund to the Texas Department of Health for the remainder of the fiscal year ending August 31, 2001, for the purpose of providing services under the state Medicaid program.

(f) Funds described by Subsections (a), (b), (c), (d), and (e) of this section may be expended only for the purpose described by Subsections (a), (b), (c), (d), and (e) of this section and only if:

(1) Medicaid expenditures exceed otherwise available revenue because of changes in caseloads and costs or a lower federal match rate; and

(2) the Texas Department of Health has used all revenue available to the Medicaid program, including but not limited to premium credits and vendor drug rebates.

(g) The unexpended balance of funds described by Subsections (a), (b), and (c) of this section remaining at the end of the state fiscal year that ends August 31, 2001, is appropriated from the general revenue fund to the Texas Department of Health for the state fiscal year beginning September 1, 2001, for the purpose of providing services under the state Medicaid program, but the amounts appropriated by this subsection may be expended by the department only with the prior approval of the Legislative Budget Board.

**SECTION 2. TEXAS DEPARTMENT OF CRIMINAL JUSTICE: CAPACITY; CAREER LADDER ADJUSTMENTS.** (a) The unencumbered amounts listed below that were appropriated by Chapter 1589, Acts of the 76th Legislature, Regular Session, 1999 (the General Appropriations Act), from the general revenue fund to the respective agencies for one or both fiscal years of the fiscal biennium ending August 31, 2001, totalling \$65,519,000, are

transferred to the Texas Department of Criminal Justice for the remainder of the fiscal year ending August 31, 2001, with \$29,819,000 of that amount transferred for the purpose of providing for expenditures relating to the operation of additional prison capacity and to contracts with counties for additional temporary capacity, and \$35,700,000 of that amount transferred for the purpose of providing for expenditures relating to correctional officer, sergeant, and food service and laundry manager career ladder salary adjustments:

(1) various agencies identified by the comptroller of public accounts, subject to Section 8 of this Act \$ 33,377,000

(2) the Texas Natural Resource Conservation Commission that may be spent for water resource assessment and planning \$ 1,400,000

(3) the Texas Youth Commission that may be spent for various purposes \$ 1,000,000

(4) the Department of Information Resources in Article IX of the General Appropriations Act that may be spent for Year 2000 Conversion \$ 12,800,000

(5) the State Preservation Board that may be spent for various purposes \$ 6,500,000

(6) the Comptroller of Public Accounts, Fiscal Programs, that may be spent for Tort Claims & Federal Court Judgments \$ 5,000,000

(7) the Texas Natural Resource Conservation Commission for various purposes for which the commission received an appropriation from general revenue \$ 5,442,000

(b) In addition to amounts previously appropriated for the current fiscal biennium, the sum of \$2,781,000 is appropriated from the criminal justice planning account to the Texas Department of Criminal Justice for the remainder of the fiscal year ending August 31, 2001, for the purpose of providing for expenditures relating to the operation of additional prison capacity and to contracts with counties for additional temporary capacity.

(c) In addition to amounts previously appropriated for the current fiscal biennium, the sum of \$41,000,000 is appropriated from the fugitive apprehension account to the Texas Department of Criminal Justice for the remainder of the fiscal year ending August 31, 2001, for the purpose of providing for expenditures relating to the operation of additional prison capacity and to contracts with counties for additional temporary capacity.

**SECTION 3. STATE OFFICE OF RISK MANAGEMENT: PAYMENT OF WORKERS' COMPENSATION CLAIMS.** (a) From the amounts appropriated by Chapter 1589, Acts of the 76th Legislature, Regular Session, 1999 (the General Appropriations Act), from the general revenue fund for one or both fiscal years of the fiscal biennium ending August 31, 2001, to the Office of the Governor that may be spent for disaster grants and emergency and deficiency grants, the unencumbered amount of \$6,300,000 is transferred to the State Office of Risk Management for the remainder of the fiscal year ending August 31, 2001, for the purpose of paying higher than expected workers' compensation claims.

(b) The sum of \$6,700,000, originally derived as interest from the suspense account of the comptroller of public accounts as described by **SB 848**, Acts of

the 77th Legislature, Regular Session, 2001, is appropriated from the general revenue fund to the State Office of Risk Management for the remainder of the fiscal year ending August 31, 2001, for the purpose of paying higher than expected workers' compensation claims.

**SECTION 4. ADJUTANT GENERAL'S DEPARTMENT: PAYMENT OF UTILITY COSTS.** From the amounts appropriated by Chapter 1589, Acts of the 76th Legislature, Regular Session, 1999 (the General Appropriations Act), from the general revenue fund for one or both fiscal years of the fiscal biennium ending August 31, 2001, to the General Services Commission that may be spent for computer acquisition, the unencumbered amount of \$600,000 is transferred to the adjutant general's department for the remainder of the state fiscal year ending August 31, 2001, for the purpose of paying utility costs.

**SECTION 5. TEXAS NATURAL RESOURCE CONSERVATION COMMISSION: PURPOSES FOR WHICH GENERAL REVENUE HAS BEEN APPROPRIATED.** In addition to amounts previously appropriated for the current fiscal biennium, the sum of \$5,442,000 is appropriated from the low-level radioactive waste account to the Texas Natural Resource Conservation Commission for the remainder of the fiscal year ending August 31, 2001, for any necessary purposes for which the commission received an appropriation from general revenue for the fiscal year ending August 31, 2001.

**SECTION 6. TEXAS DEPARTMENT OF TRANSPORTATION: APPROPRIATION TRANSFER.** The unencumbered amount of \$50,000,000 that was appropriated by Chapter 1589, Acts of the 76th Legislature, Regular Session, 1999 (the General Appropriations Act), from State Highway Fund No. 006 to the Texas Department of Transportation in Highway Construction strategy A.1.3. for the fiscal year ending August 31, 2001, is transferred to the Texas Department of Transportation's Plan/Design/Manage strategy A.1.1. for the remainder of the fiscal year ending August 31, 2001, for the purpose of funding planning and design contracts.

**SECTION 7. DEPARTMENT OF PROTECTIVE AND REGULATORY SERVICES: MANAGING HIGHER CASELOAD.** From the amounts appropriated by Chapter 1589, Acts of the 76th Legislature, Regular Session, 1999 (the General Appropriations Act), from the general revenue fund for one or both fiscal years of the fiscal biennium ending August 31, 2001, to the Office of Court Administration of the Texas Judicial System that may be spent for the Judicial Committee on Information Technology, the unencumbered amount of \$1,000,000 is transferred to the Department of Protective and Regulatory Services for the remainder of the fiscal year ending August 31, 2001, for the purpose of allowing the department to manage a higher than expected caseload.

**SECTION 8. TRANSFERS FROM AGENCIES IDENTIFIED BY COMPTROLLER.** (a) After the comptroller has identified the various agencies from which amounts are to be transferred for purposes of this Act, the comptroller shall submit to the Legislative Budget Board and the governor a detailed listing of the appropriations proposed to be transferred. The budget board and the governor may modify or reject the comptroller's proposal and shall direct the comptroller to make those transfers approved by the budget board and the governor.

(b) Transfers made in accordance with this section are emergency transfers made under the authority of Section 69, Article XVI, Texas Constitution.

SECTION 9. CERTAIN APPROPRIATIONS FOR FISCAL YEAR BEGINNING SEPTEMBER 1, 2001. The following amounts are appropriated from the general revenue fund to the listed agencies for the described purposes for the state fiscal year beginning September 1, 2001:

- (1) \$2,781,000 to the Office of the Governor for the purposes for which the criminal justice planning account may be appropriated;
- (2) \$13,000,000 to the Office of the Governor for the purpose of making emergency and deficiency grants and disaster grants;
- (3) \$39,000,000 to the Texas Higher Education Coordinating Board for the purpose of making Texas Excellence access and success grants;
- (4) \$500,000 to the Texas Historical Commission for archeological heritage protection;
- (5) \$500,000 to the Texas Historical Commission to evaluate and interpret resources;
- (6) \$6,500,000 to the State Preservation Board for the purpose of implementing Chapter 443, Government Code;
- (7) \$2,790,000 to the General Services Commission for property acquisition, repair, and renovation;
- (8) \$1,700,000 to the General Services Commission for computer acquisition; and
- (9) \$118,231 to the Texas Natural Resource Conservation Commission for low-level radioactive waste assessment.

SECTION 10. TEXAS DEPARTMENT OF ECONOMIC DEVELOPMENT: DEFENSE-RELATED JOBS CREATION. (a) From the amounts appropriated by Chapter 1589, Acts of the 76th Legislature, Regular Session, 1999 (the General Appropriations Act), from Smart Jobs Fund No. 891 to the Texas Department of Economic Development in connection with the smart jobs program, the department is authorized to expend the unencumbered amount of \$4,000,000 during the remainder of the fiscal year ending August 31, 2001, for the purpose of awarding grants in communities in this state in connection with the creation of qualified defense-related jobs.

(b) The unexpended balance of funds described by Subsection (a) of this section remaining at the end of the fiscal year ending August 31, 2001, is appropriated from Smart Jobs Fund No. 891 to the Texas Department of Economic Development for the fiscal year beginning September 1, 2001, for the purpose of awarding grants in communities in this state in connection with the creation of qualified defense-related jobs.

SECTION 11. EFFECTIVE DATE. This Act takes effect immediately.

### **Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **CSHB 1333** as follows:

(1) In SECTION 1(a)(13) of the bill (page 1, line 50, senate committee printing), strike "Texas Excellence access and success grants" and substitute "Toward EXcellence, Access, and Success (TEXAS) grants".

(2) In SECTION 9(3) of the bill (page 4, lines 33 and 34, senate committee printing), strike "Texas Excellence access and success grants" and substitute "Toward EXcellence, Access, and Success (TEXAS) grants".

**HB 1359 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1359**, A bill to be entitled An Act relating to the transfer of course credit between public institutions of higher education.

On motion of Representative Villarreal, the house concurred in the senate amendments to **HB 1359** by (Record 558): 136 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Pickett; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Turner, S.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbrank.

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

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; West.

Absent, Excused, Committee Meeting — Dunnam; Hardcastle; Olivo; Sadler; Smith.

Absent — Luna; Moreno, P.

**Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 1359** (Senate committee printing) as follows:

(1) On page 1, lines 22 through 27, in proposed Section 61.823(e), strike the following:

"If the board fails to meet the requirements of this subsection by January 1, 2003, for a designated degree program, all lower division courses required for that degree program are automatically transferable for credit between all institutions of higher education that offer that degree program."

(2) On page 1, lines 37 through 41, in proposed Section 61.823(f), strike the following:

"If the board fails to meet the requirements of this subsection by January 1, 2004, for a designated degree program, all lower division courses required for that degree program are automatically transferable for credit between all institutions of higher education that offer that degree program."

## **HB 1365 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1365**, A bill to be entitled An Act relating to the establishment, modification, and enforcement of child support.

On motion of Representative Goodman, the house concurred in the senate amendments to **HB 1365**.

### **Senate Committee Substitute**

**CSHB 1365**, A bill to be entitled An Act relating to the establishment, modification, and enforcement of child support.

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

SECTION 1. Section 101.015, Family Code, is amended to read as follows:

Sec. 101.015. HEALTH INSURANCE. "Health insurance" means insurance coverage that provides basic health care services, including usual physician services, office visits, hospitalization, and laboratory, X-ray, and emergency services, that may be provided through a health maintenance organization or other private or public organization, other than medical assistance under Chapter 32, Human Resources Code.

SECTION 2. Section 102.013, Family Code, is amended by adding Subsection (c) to read as follows:

(c) In a suit to determine parentage under this title in which the court has rendered an order relating to an earlier born child of the same parents, the clerk shall file the suit and all other papers relating to the suit under the same docket number as the prior parentage action. For all other purposes, including the assessment of fees and other costs, the suit is a separate suit.

SECTION 3. Section 154.008, Family Code, is amended to read as follows:

Sec. 154.008. PROVISION FOR MEDICAL SUPPORT [~~HEALTH INSURANCE COVERAGE~~]. The court shall order medical support [~~health insurance coverage~~] for the child as provided by Subchapters B and D.

SECTION 4. Section 154.009, Family Code, is amended by adding Subsections (d) and (e) to read as follows:

(d) Notwithstanding Subsection (a), the court may order a parent subject to a previous child support order to pay retroactive child support if:

(1) the previous child support order terminated as a result of the marriage or remarriage of the child's parents;

(2) the child's parents separated after the marriage or remarriage; and

(3) a new child support order is sought after the date of the separation.

(e) In rendering an order under Subsection (d), the court may order retroactive child support back to the date of the separation of the child's parents.

SECTION 5. Section 154.012, Family Code, is amended to read as follows:

Sec. 154.012. SUPPORT PAID IN EXCESS [~~AFTER TERMINATION~~] OF SUPPORT ORDER. (a) If an [~~the~~] obligor is not in arrears and the obligor's child support obligation has terminated, the [~~an~~] obligee shall return to the

~~[am]~~ obligor a child support payment made by the obligor that exceeds the amount of support ordered, regardless of whether the payment was made before, on, or after the date the child support obligation ~~[order has]~~ terminated.

(b) An obligor may file a suit to recover a child support payment under Subsection (a). If the court finds that the obligee failed to return a child support payment under Subsection (a), the court shall order the obligee to pay to the obligor attorney's fees and all court costs in addition to the amount of support paid after the date the child support order terminated. For good cause shown, the court may waive the requirement that the obligee pay attorney's fees and costs if the court states the reasons supporting that finding.

SECTION 6. Subchapter A, Chapter 154, Family Code, is amended by adding Section 154.013 to read as follows:

Sec. 154.013. CONTINUATION OF DUTY TO PAY SUPPORT AFTER DEATH OF OBLIGEE. (a) A child support obligation does not terminate on the death of the obligee but continues as an obligation to the child named in the support order, as required by this section.

(b) Notwithstanding any provision of the Probate Code, a child support payment held by the Title IV-D agency, a local registry, or the state disbursement unit or any uncashed check or warrant representing a child support payment made before, on, or after the date of death of the obligee shall be paid proportionately for the benefit of each surviving child named in the support order and not to the estate of the obligee. The payment is free of any creditor's claim against the deceased obligee's estate and may be disbursed as provided by Subsection (c).

(c) On the death of the obligee, current child support owed by the obligor for the benefit of the child or any amount described by Subsection (b) shall be paid to:

(1) a person, other than a parent, who is appointed as managing conservator of the child;

(2) a person, including the obligor, who has assumed actual care, control, and possession of the child, if a managing conservator or guardian of the child has not been appointed;

(3) the county clerk, as provided by Section 887, Texas Probate Code, in the name of and for the account of the child for whom the support is owed;

(4) a guardian of the child appointed under Chapter XIII, Texas Probate Code, as provided by that code; or

(5) the surviving child, if the child is an adult or has otherwise had the disabilities of minority removed.

(d) On presentation of the obligee's death certificate, the court shall render an order directing payment of child support paid but not disbursed to be made as provided by Subsection (c). A copy of the order shall be provided to:

(1) the obligor;

(2) as appropriate:

(A) the person having actual care, control, and possession of the child;

(B) the county clerk; or

(C) the managing conservator or guardian of the child, if one has been appointed;

(3) the local registry or state disbursement unit and, if appropriate, the Title IV-D agency; and

(4) the child named in the support order, if the child is an adult or has otherwise had the disabilities of minority removed.

(e) The order under Subsection (d) must contain:

(1) a statement that the obligee is deceased and that child support amounts otherwise payable to the obligee shall be paid for the benefit of a surviving child named in the support order as provided by Subsection (c);

(2) the name and age of each child named in the support order; and

(3) the name and mailing address of, as appropriate:

(A) the person having actual care, control, and possession of the child;

(B) the county clerk; or

(C) the managing conservator or guardian of the child, if one has been appointed.

(f) On receipt of the order required under this section, the local registry, state disbursement unit, or Title IV-D agency shall disburse payments as required by the order.

SECTION 7. Section 154.064, Family Code, is amended to read as follows:

Sec. 154.064. ~~MEDICAL SUPPORT [HEALTH INSURANCE] FOR CHILD PRESUMPTIVELY PROVIDED BY OBLIGOR.~~ The guidelines for support of a child are based on the assumption that the court will order the obligor to provide medical support ~~[health insurance coverage]~~ for the child in addition to the amount of child support calculated in accordance with those guidelines.

SECTION 8. Section 154.130, Family Code, is amended by adding Subsection (c) to read as follows:

(c) The application of the guidelines under Section 154.129 does not constitute a variance from the child support guidelines requiring specific findings by the court under this section.

SECTION 9. Section 154.131, Family Code, is amended to read as follows:

Sec. 154.131. ~~[APPLICATION OF GUIDELINES TO]~~ RETROACTIVE CHILD SUPPORT. (a) The child support guidelines are intended to guide the court in determining the amount of retroactive child support, if any, to be ordered.

(b) In ordering retroactive child support, the court shall consider the net resources of the obligor during the relevant time period and whether:

(1) the mother of the child had made any previous attempts to notify the obligor ~~[biological father]~~ of his paternity or probable paternity;

(2) the obligor ~~[biological father]~~ had knowledge of his paternity or probable paternity;

(3) the order of retroactive child support will impose an undue financial hardship on the obligor or the obligor's family; and

(4) the obligor has provided actual support or other necessities before the filing of the action.

(c) It is presumed that a court order limiting the amount of retroactive child support to an amount that does not exceed the total amount of support



that would have been due for the four years preceding the date the petition seeking support was filed is reasonable and in the best interest of the child.

(d) The presumption created under this section may be rebutted by evidence that the obligor:

(1) knew or should have known that the obligor was the father of the child for whom support is sought; and

(2) sought to avoid the establishment of a support obligation to the child.

(e) An order under this section limiting the amount of retroactive support does not constitute a variance from the guidelines requiring the court to make specific findings under Section 154.130.

SECTION 10. Section 154.185, Family Code, is amended to read as follows:

Sec. 154.185. PARENT TO FURNISH INFORMATION. (a) The court shall order a parent providing health insurance to furnish to either the obligee, obligor, [~~local domestic relations office;~~] or child support [~~Title IV-D~~] agency the following information not later than the 30th day after the date the notice of rendition of the order is received:

(1) the social security number of the parent;

(2) the name and address of the parent's employer;

(3) whether the employer is self-insured or has health insurance available;

(4) proof that health insurance has been provided for the child;

(5) if the employer has health insurance available, the name of the health insurance carrier, the number of the policy, a copy of the policy and schedule of benefits, a health insurance membership card, claim forms, and any other information necessary to submit a claim; and

(6) if the employer is self-insured, a copy of the schedule of benefits, a membership card, claim forms, and any other information necessary to submit a claim.

(b) The court shall also order a parent providing health insurance to furnish the obligor, obligee, [~~local domestic relations office;~~] or child support [~~Title IV-D~~] agency with additional information regarding health insurance coverage not later than the 15th day after the date the information is received by the parent.

SECTION 11. Section 155.205, Family Code, is amended to read as follows:

Sec. 155.205. TRANSFER OF CHILD SUPPORT REGISTRY. (a) On rendition of an order transferring continuing, exclusive jurisdiction to another court, the transferring court shall also order that all future payments of child support be made to the local registry of the transferee court[~~, the Title IV-D agency;~~] or, if payments have previously been directed to the state disbursement unit, to the state disbursement unit.

(b) The transferring court's local registry[~~, the Title IV-D agency;~~] or the state disbursement unit shall continue to receive, record, and forward child support payments to the payee until it receives notice that the transferred case has been docketed by the transferee court.

(c) After receiving notice of docketing from the transferee court, the transferring court's local registry shall send a certified copy of the child

support payment record to the clerk of the transferee court and shall forward any payments received to the transferee court's local registry or to the state disbursement unit, as appropriate.

SECTION 12. Sections 155.207(a), (c), and (d), Family Code, are amended to read as follows:

(a) On rendition of an order of transfer, the clerk of the court transferring a proceeding shall send to the proper court in the county to which transfer is being made:

(1) the complete files in all matters affecting the child in any pending proceeding;

(2) certified copies of all entries in the minutes;

(3) a certified copy of any order of dissolution of marriage rendered in a suit joined with the suit affecting the parent-child relationship; and

(4) a certified copy of each order rendered.

(c) On receipt of the files, documents, and orders from the transferring court, the clerk of the transferee court shall docket the suit and shall notify all parties, the clerk of the transferring court, and, if appropriate, the transferring court's local registry that the suit has been docketed.

(d) The clerk of the transferring court shall send a certified copy of the order directing payments to the transferee court, to any party or employer affected by that order, and, if appropriate, to the local registry of the transferee court.

SECTION 13. Section 156.408(b), Family Code, is amended to read as follows:

(b) If both parties and the child reside in this state, a court of this state may modify an order of child support rendered by an appropriate tribunal of another state after registration of the order as provided by ~~[and any aspect of conservatorship as provided by this chapter without reference to]~~ Chapter 159.

SECTION 14. Section 156.409, Family Code, is amended to read as follows:

Sec. 156.409. CHANGE IN PHYSICAL POSSESSION. (a) If the sole managing conservator of a child or the joint managing conservator who designates the child's primary residence has voluntarily relinquished the actual care, control, and possession of the child for at least six months, the court may modify an order providing for the support of the child to provide that the person having physical possession of the child shall have the right to receive and give receipt for payments of support for the child and to hold or disburse money for the benefit of the child.

(b) Notice of a motion for modification under this section may be served in the manner for serving a notice under Section 157.065.

SECTION 15. Section 157.262, Family Code, is amended to read as follows:

Sec. 157.262. REDUCTION OF ARREARAGES; ABEYANCE OF ENFORCEMENT. (a) Except as provided by this section, in [It] a contempt proceeding or in rendering a money judgment, the court may not reduce or modify the amount of child support arrearages.

(b) In an enforcement action under this chapter, the court may, with the agreement of the Title IV-D agency, hold in abeyance the enforcement of any

arrearages, including interest, assigned to the Title IV-D agency under Section 231.104(a) if, for the period of the court's order of abeyance of enforcement, the obligor:

(1) timely and fully pays the obligor's current child support under a court or administrative order; and

(2) is involved in the life of the child for whom support is ordered through the exercise of the obligor's right of possession of or access to the child.

(c) If the court orders an abeyance of enforcement of arrearages under this section, the court may require the obligor to obtain counseling on parenting skills, work skills, job placement, financial planning, conflict resolution, substance abuse, or other matters causing the obligor to fail to obey the child support order.

(d) If the court finds in a subsequent hearing that the obligor has not met the conditions set by the court's order under this section, the court shall terminate the abeyance of enforcement of the arrearages.

(e) On the expiration of the child support order, the court may, with the agreement of the Title IV-D agency, reduce the amount of the arrearages assigned to the Title IV-D agency under Section 231.104(a) if the court finds that the obligor has complied with the conditions set by the court under this section.

(f) The money judgment for arrearages rendered by the court may be subject to a counterclaim or offset as provided by this subchapter.

SECTION 16. Section 157.264, Family Code, is amended to read as follows:

Sec. 157.264. ENFORCEMENT OF JUDGMENT [~~BY INCOME WITHHOLDING~~]. (a) A money judgment rendered as provided in this subchapter may be enforced by any means available for the enforcement of a judgment for debts.

(b) The court may render [~~and by~~] an order requiring:

(1) that income be withheld from the disposable earnings of the obligor in an amount sufficient to discharge the judgment in not more than two years; or

(2) if the obligor is not subject to income withholding, that the obligor make periodic payments to the obligee in an amount sufficient to discharge the judgment within a reasonable time.

SECTION 17. Section 157.268, Family Code, is amended to read as follows:

Sec. 157.268. APPLICATION OF CHILD SUPPORT PAYMENT. Child support collected shall be applied in the following order of priority:

(1) current child support;

(2) non-delinquent child support owed;

(3) interest on the principal amounts specified in Subdivisions (4) and (5);

(4) the principal amount of child support that has not been confirmed and reduced to money judgment; [~~and~~]

(5) the principal amount of child support that has been confirmed and reduced to money judgment; and

(6) the amount of any ordered attorney's fees or costs.

SECTION 18. Section 157.311, Family Code, is amended to read as follows:

Sec. 157.311. DEFINITIONS. In this subchapter:

(1) "Account" means:

(A) any type of a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, money market mutual fund account, certificate of deposit, or any other instrument of deposit in which an individual has a beneficial ownership either in its entirety or on a shared or multiple party basis, including any accrued interest and dividends; and

(B) a life insurance policy in which an individual has a beneficial ownership or liability insurance against which an individual has filed a claim or counterclaim, including for workers' compensation.

(2) "Claimant" means:

(A) the obligee or a private attorney representing the obligee;

(B) the Title IV-D agency providing child support services;

(C) a domestic relations office or local registry; or

(D) an attorney appointed as a friend of the court.

(3) ~~(2)~~ "Court having continuing jurisdiction" is the court of continuing, exclusive jurisdiction in this state or a tribunal of another state having jurisdiction under the Uniform Interstate Family Support Act or a substantially similar act.

(4) "Financial institution" has the meaning assigned by 42 U.S.C. Section 669a(d)(1) and includes a depository institution, credit union, benefit association, liability or life insurance company, workers' compensation insurer, money market mutual fund, and any similar entity authorized to do business in this state.

(5) ~~(3)~~ "Lien" means a child support lien issued in this or another state.

SECTION 19. Sections 157.312(d) and (f), Family Code, are amended to read as follows:

(d) A child support lien arises[:

~~(1)~~ by operation of law against real and personal property of an obligor for all amounts of child [overdue] support due and owing, including any accrued interest, regardless of whether the amounts have been adjudicated or otherwise determined, subject to the requirements of this subchapter for perfection of the lien [recording and notice; or

~~(2) when a court having continuing jurisdiction or, in a Title IV-D case, the Title IV-D agency determines an amount of arrears owed by a child support obligor].~~

(f) A foreclosure action under this subchapter is not required as a prerequisite to levy and execution on a judicial [judgment] or [an] administrative determination of arrearages as provided by Section 157.327 [arrears rendered after notice and opportunity for hearing].

SECTION 20. Section 157.313, Family Code, is amended to read as follows:

Sec. 157.313. CONTENTS OF CHILD SUPPORT LIEN NOTICE. (a) Except as provided by Subsection (e), a [A] child support lien notice must contain:

(1) the name and address of the person to whom the notice is being sent;

(2) the style, docket or cause number, and identity of the tribunal of this or another state having continuing jurisdiction of the child support action and, if the case is a Title IV-D case, the case number;

(3) ~~[(2)]~~ the full name, address, and, if known [available], the birth date, driver's license number, [and] social security number, and any aliases of the obligor;

(4) ~~[(3)]~~ the full name and, if known, social security number[~~-, if available,~~] of the obligee [and the child];

(5) ~~[(4)]~~ the amount of the current or prospective child support obligation, the frequency with which current or prospective child support is ordered to be paid, and the amount of child support arrearages owed by the obligor and the date of the signing of the court order, administrative order, or writ that determined the arrearages or the date and manner in which the arrearages were determined;

(6) ~~[(5)]~~ the rate of interest specified in the court order, administrative order, or writ or, in the absence of a specified interest rate, the rate provided for by law;

(7) ~~[(6)]~~ the name and address of the person or agency asserting the lien; [and]

(8) ~~[(7)]~~ the motor vehicle identification number as shown on the obligor's title if the property is a motor vehicle;

(9) a statement that the lien attaches to all nonexempt real and personal property of the obligor that is located or recorded in the state, including any property specifically identified in the notice;

(10) a statement that any ordered child support not timely paid in the future constitutes a final judgment for the amount due and owing, including interest, and accrues up to an amount that may not exceed the lien amount; and

(11) a statement that the obligor is being provided a copy of the lien notice and that the obligor may dispute the arrearage amount by filing suit under Section 157.323.

(b) A claimant may include any other information that the claimant considers necessary.

(c) The lien notice must be verified.

(d) A claimant must file a notice for each after-acquired motor vehicle.

(e) A notice of a lien for child support under this section may be in the form authorized by federal law or regulation.

SECTION 21. Section 157.314, Family Code, is amended to read as follows:

Sec. 157.314. FILING LIEN NOTICE OR ABSTRACT OF JUDGMENT; NOTICE TO OBLIGOR. (a) A child support lien notice or an abstract of judgment for past due child support may be filed by the claimant with the county clerk of:

(1) any county in which the obligor is believed to own nonexempt real or personal property;

(2) the county in which the obligor resides; or

(3) the county in which the court having continuing jurisdiction has venue of the suit affecting the parent-child relationship.

(b) A child support lien notice may be filed with or delivered to the following, as appropriate:

(1) the clerk of the court in which a claim, counterclaim, or suit by, or on behalf of, the obligor, including a claim or potential right to proceeds from an estate as an heir, beneficiary, or creditor, is pending, provided that a copy of the lien is mailed to the attorney of record for the obligor, if any;

(2) an attorney who represents the obligor in a claim or counterclaim that has not been filed with a court;

(3) any other individual or organization believed to be in possession of real or personal property of the obligor; or

(4) any governmental unit or agency that issues or records certificates, titles, or other indicia of property ownership.

(c) Not later than the 21st day after the date of filing or delivering the child support lien notice, the claimant shall provide a copy of the notice to the obligor by first class or certified mail, return receipt requested, addressed to the obligor at the obligor's last known address. If another person is known to have an ownership interest in the property subject to the lien, the claimant shall provide a copy of the lien notice to that person at the time notice is provided to the obligor.

(d) If a child support lien notice is delivered to a financial institution with respect to an account of the obligor, the institution shall immediately:

(1) provide the claimant with the last known address of the obligor;  
and

(2) notify any other person having an ownership interest in the account that the account has been frozen in an amount not to exceed the amount of the child support arrearage identified in the notice.

SECTION 22. Subchapter G, Chapter 157, Family Code, is amended by adding Section 157.3145 to read as follows:

Sec. 157.3145. SERVICE ON FINANCIAL INSTITUTION. Service of a child support lien notice on a financial institution relating to property held by the institution in the name of, or in behalf of, an obligor is governed by Section 59.008, Finance Code, if the institution is subject to that law, or may be delivered to the registered agent, the institution's main business office in this state, or another address provided by the institution under Section 231.307.

SECTION 23. Section 157.315, Family Code, is amended to read as follows:

Sec. 157.315. RECORDING AND INDEXING LIEN. (a) On receipt of a child support lien notice, the county clerk shall immediately record the notice in the county judgment records as provided in Chapter 52, Property Code.

(b) The county clerk may not charge the Title IV-D agency, a domestic relations office, a friend of the court, or any other party a fee for recording the notice of a lien. To qualify for this exemption, the lien notice must be styled "Notice of Child Support Lien[:]" or be in the form authorized by federal law or regulation.

(c) The county clerk may not charge the Title IV-D agency, a domestic

relations office, or a friend of the court a fee for recording the release of a child support lien. The lien release must be styled "Release of Child Support Lien."

SECTION 24. Section 157.316(a), Family Code, is amended to read as follows:

(a) Except as provided by Subsection (b), a child support lien is perfected when an abstract of judgment for past due child support or a child support lien notice is filed or delivered [~~with the county clerk~~] as provided by Section 157.314 [~~this subchapter~~].

SECTION 25. Section 157.317(a), Family Code, is amended to read as follows:

(a) A child support lien attaches to all real and personal property not exempt under the Texas Constitution or other law, including an [a depository] account in a financial institution, [including a mutual fund money market account, or] a retirement plan, including an individual retirement account, the proceeds of a life insurance policy, a claim for negligence, personal injury, or workers' compensation, or an insurance settlement or award for the claim, due to or owned by the obligor on or after the date the lien notice or abstract of judgment is filed with the county clerk of the county in which the property is located, with the court clerk as to property or claims in litigation, or, as to property of the obligor in the possession or control of a third party, from the date the lien notice is filed with that party. [Service of a lien notice on a financial institution relating to property held by the financial institution in the name of or on behalf of an obligor who is a customer of the financial institution is governed by Section 59.008, Finance Code.]

SECTION 26. Sections 157.318(a) and (b), Family Code, are amended to read as follows:

(a) A lien is effective until all current support and child support arrearages, including interest and any costs and reasonable attorney's fees, have been paid or the lien is otherwise released as provided by this subchapter.

(b) The lien secures payment of all child support arrearages owed by the obligor under the underlying child support order, including arrearages that accrue after the [~~administrative or judicial determination of arrearages stated in the~~] lien notice was filed or delivered as provided by Section 157.314.

SECTION 27. Section 157.319, Family Code, is amended by adding Subsection (c) to read as follows:

(c) This section does not affect the validity or priority of a lien of a health care provider, a lien for attorney's fees, or a lien of a holder of a security interest. This section does not affect the assignment of rights or subrogation of a claim under Title XIX of the federal Social Security Act (42 U.S.C. Section 1396 et seq.), as amended.

SECTION 28. Section 157.321, Family Code, is amended to read as follows:

Sec. 157.321. DISCRETIONARY RELEASE OF LIEN. A child support lien claimant may at any time release a lien on all or part of the property of the obligor or return seized property, without liability, if assurance of payment is considered adequate by the claimant or if the release or return will facilitate the collection of the arrearages. The release or return may not

operate to prevent future action to collect from the same or other property owned by the obligor.

SECTION 29. Section 157.322, Family Code, is amended to read as follows:

Sec. 157.322. MANDATORY RELEASE OF LIEN. (a) On payment in full of the amount of child support due, together with any costs and reasonable attorney's fees, the child support lien claimant shall execute and deliver to the obligor or the obligor's attorney a release of the child support lien.

(b) The release of the child support lien is effective when:

(1) filed with the county clerk with whom the lien notice or abstract of judgment was filed; or

(2) ~~delivered to~~ ~~— A copy of the release of lien may be filed with~~ any other individual or organization that may have been served with a lien notice under this subchapter.

SECTION 30. Sections 157.323(a) and (b), Family Code, are amended to read as follows:

(a) In addition to any other remedy provided by law, an action to foreclose a child support lien, ~~[or]~~ to dispute the amount of arrearages stated in the lien, or to resolve issues of ownership interest with respect to property subject to a child support lien may be brought in:

(1) the court in which the lien notice was filed under Section 157.314(b)(1);

(2) ~~[of continuing jurisdiction or, if there is no court of continuing jurisdiction in this state, in]~~ the district court of the county in which the property is or was located and the lien was filed; or

(3) the court of continuing jurisdiction.

(b) The procedures provided by Subchapter B apply to a foreclosure action under this section, except that a person or organization in possession of the property of the obligor or known to have an ownership interest in property that is subject to the lien may be joined as an additional respondent.

SECTION 31. Section 157.324, Family Code, is amended to read as follows:

Sec. 157.324. LIABILITY FOR FAILURE TO COMPLY WITH ORDER OR LIEN. A person who knowingly disposes of property subject to a child support lien, ~~[or]~~ who, after a foreclosure hearing, fails to surrender on demand nonexempt personal property as directed by a court or administrative order under this subchapter, or who fails to comply with a notice of levy under this subchapter is liable to the claimant in an amount equal to the arrearages for which the lien, notice of levy, or foreclosure judgment was issued.

SECTION 32. Section 157.325(a), Family Code, is amended to read as follows:

(a) If a person has in the person's possession earnings, deposits, accounts, ~~[or]~~ balances, or other funds or assets of the obligor, including the proceeds of a judgment or other settlement of a claim or counterclaim due to the obligor that are in excess of the amount of arrearages specified in the child support lien, the holder of the nonexempt personal property or the obligor may request that the claimant release any excess amount from the lien. The claimant shall grant the request and discharge any lien on the excess amount unless the security for the arrearages would be impaired.



SECTION 33. Section 157.326, Family Code, is amended to read as follows:

Sec. 157.326. INTEREST OF OBLIGOR'S SPOUSE OR ANOTHER PERSON HAVING OWNERSHIP INTEREST. (a) A spouse of an obligor or another person having an ownership interest in property that is subject to a child support lien may file suit under Section 157.323 to ~~[an affidavit with the court of continuing jurisdiction or, if there is no court of continuing jurisdiction in this state, in the district court of the county in which the property is or was located and the lien was filed requesting that the court]~~ determine the extent, if any, of the spouse's or other person's interest in real or personal property that is subject to:

- (1) a lien perfected under this subchapter; or
- (2) an action to foreclose under this subchapter.

(b) After notice to the obligor, the obligor's spouse, any other person alleging an ownership interest, the claimant, and the obligee, the court shall conduct a hearing and determine the extent, if any, of the ownership interest in the property held by the obligor's spouse or other person. If the court finds that:

(1) the property is the separate property of the obligor's spouse or the other person, the court shall order that the lien against the property be released and that any action to foreclose on the property be dismissed; ~~[or]~~

(2) the property is jointly owned by the obligor and the obligor's spouse, the court shall determine whether the sale of the obligor's interest in the property would result in an unreasonable hardship on the obligor's spouse or family and:

(A) if so, the court shall render an order that the obligor's interest in the property not be sold and that the lien against the property should be released; or

(B) if not, the court shall render an order partitioning the property and directing that the property be sold and the proceeds applied to the child support arrearages; or

(3) the property is owned in part by another person, other than the obligor's spouse, the court shall render an order partitioning the property and directing that the obligor's share of the property be applied to the child support arrearages.

(c) In a proceeding under this section, the spouse or other person claiming an ownership interest in the property has the burden to prove the extent of that ownership interest.

SECTION 34. Subchapter G, Chapter 157, Family Code, is amended by adding Sections 157.327-157.331 to read as follows:

Sec. 157.327. EXECUTION AND LEVY ON FINANCIAL ASSETS OF OBLIGOR. (a) Notwithstanding any other provision of law, if a judgment or administrative determination of arrearages has been rendered, a claimant may deliver a notice of levy to any financial institution possessing or controlling assets or funds owned by, or owed to, an obligor and subject to a child support lien, including a lien for child support arising in another state.

(b) The notice under this section must:

(1) identify the amount of child support arrearages owing at the time the amount of arrearages was determined; and

(2) direct the financial institution to pay to the claimant, not earlier than the 15th day or later than the 21st day after the date of delivery of the notice, an amount from the assets of the obligor or from funds due to the obligor that are held or controlled by the institution, not to exceed the amount of the child support arrearages identified in the notice, unless:

(A) the institution is notified by the claimant that the obligor has paid the arrearages or made arrangements satisfactory to the claimant for the payment of the arrearages;

(B) the obligor or another person files a suit under Section 157.323 requesting a hearing by the court; or

(C) if the claimant is the Title IV-D agency, the obligor has requested an agency review under Section 157.328.

(c) A financial institution that receives a notice of levy under this section may not close an account in which the obligor has an ownership interest, permit a withdrawal from any account the obligor owns, in whole or in part, or pay funds to the obligor so that any amount remaining in the account is less than the amount of the arrearages identified in the notice, plus any fees due to the institution and any costs of the levy identified by the claimant.

(d) A financial institution that receives a notice of levy under this section shall notify any other person having an ownership interest in an account in which the obligor has an ownership interest that the account has been levied on in an amount not to exceed the amount of the child support arrearages identified in the notice of levy.

(e) The notice of levy may be delivered to a financial institution as provided by Section 59.008, Finance Code, if the institution is subject to that law or may be delivered to the registered agent, the institution's main business office in this state, or another address provided by the institution under Section 231.307.

Sec. 157.328. NOTICE OF LEVY SENT TO OBLIGOR. (a) At the time the notice of levy under Section 157.327 is delivered to a financial institution, the claimant shall serve the obligor with a copy of the notice.

(b) The notice of levy delivered to the obligor must inform the obligor that:

(1) the claimant will not proceed with levy if, not later than the 10th day after the date of receipt of the notice, the obligor pays in full the amount of arrearages identified in the notice or otherwise makes arrangements acceptable to the claimant for the payment of the arrearage amounts; and

(2) the obligor may contest the levy by filing suit under Section 157.323 not later than the 10th day after the date of receipt of the notice.

(c) If the claimant is the Title IV-D agency, the obligor receiving a notice of levy may request review by the agency not later than the 10th day after the date of receipt of the notice to resolve any issue in dispute regarding the existence or amount of the arrearages. The agency shall provide an opportunity for a review, by telephone conference or in person, as appropriate to the circumstances, not later than the fifth business day after the date an oral or written request from the obligor for the review is received. If the review fails to resolve any issue in dispute, the obligor may file suit under Section 157.323 for a hearing by the court not later than the fifth day

after the date of the conclusion of the agency review. If the obligor fails to timely file suit, the Title IV-D agency may request the financial institution to release and remit the funds subject to levy.

(d) The notice under this section may be delivered to the last known address of the obligor by first class mail, certified mail, or registered mail.

Sec. 157.329. NO LIABILITY FOR COMPLIANCE WITH NOTICE OF LEVY. A financial institution that possesses or has a right to an obligor's assets for which a notice of levy has been delivered and that surrenders the assets or right to assets to a child support lien claimant is not liable to the obligor or any other person for the property or rights surrendered.

Sec. 157.330. FAILURE TO COMPLY WITH NOTICE OF LEVY. A person who possesses or has a right to property that is the subject of a notice of levy delivered to the person and who refuses to surrender the property or right to property to the claimant on demand is liable to the claimant in an amount equal to the value of the property or right to property not surrendered but that does not exceed the amount of the child support arrearages for which the notice of levy has been filed.

Sec. 157.331. ADDITIONAL LEVY TO SATISFY ARREARAGES. If the property or right to property on which a notice of levy has been filed does not produce money sufficient to satisfy the amount of child support arrearages identified in the notice of levy, the claimant may proceed to levy on other property of the obligor until the total amount of child support due is paid.

SECTION 35. Subchapter A, Chapter 158, Family Code, is amended by adding Section 158.0051 to read as follows:

Sec. 158.0051. ORDER FOR WITHHOLDING FOR COSTS AND FEES. (a) In addition to an order for income to be withheld for child support, including child support and child support arrearages, the court may render an order that income be withheld from the disposable earnings of the obligor to be applied towards the satisfaction of any ordered attorney's fees and costs resulting from an action to enforce child support under this title.

(b) An order rendered under this section is subordinate to an order or writ of withholding for child support under this chapter and is subject to the maximum amount allowed to be withheld under Section 158.009.

(c) The court shall order that amounts withheld for fees and costs under this section be remitted directly to the person entitled to the ordered attorney's fees or costs or be paid through a local registry for disbursement to that person.

SECTION 36. Section 158.103, Family Code, is amended to read as follows:

Sec. 158.103. CONTENTS OF ORDER OR WRIT OF WITHHOLDING. An order of withholding or writ of withholding issued under this chapter must contain the information required by the forms prescribed by the Title IV-D agency under Section 158.106 [that is necessary for an employer or other entity to comply with the existing child support order, including:

[(1) the style, cause number, and court having continuing jurisdiction of the suit;

[(2) the name, address, and, if available, the social security number of the obligor;

[(3) the amount and duration of the child support payments and medical support payments or other provisions for medical support, the amount of arrearages, accrued interest, and ordered fees and costs;

~~[(4) the name, address, and, if available, the social security numbers of the child and the obligee;~~

~~[(5) the name and address of the person or agency to whom the payments shall be made;~~

~~[(6) the amount of income to be withheld and remitted; and~~

~~[(7) whether the child is to be enrolled in health insurance coverage available through the obligor's employment].~~

SECTION 37. Sections 158.105(b)-(d), Family Code, are amended to read as follows:

(b) ~~[In order to inform the employer, the clerk shall attach a copy of Subchapter C to the order or writ.~~

~~[(c)]~~ The clerk shall issue and mail the certified copy of the order or judicial writ not later than the fourth working day after the date the order is signed or the request is filed, whichever is later.

(c) ~~[(c)]~~ An order or judicial writ of withholding shall be delivered to the employer by first class mail or, if requested, by certified or registered mail, return receipt requested, electronic transmission, or by service of citation to:

(1) the person authorized to receive service of process for the employer in civil cases generally; or

(2) a person designated by the employer, by written notice to the clerk, to receive orders or writs of withholding.

SECTION 38. Section 158.106(a), Family Code, is amended to read as follows:

(a) The Title IV-D agency shall prescribe forms as required ~~[authorized]~~ by federal law in a standard format entitled order or notice to withhold income for child support.

SECTION 39. Section 158.206, Family Code, is amended to read as follows:

Sec. 158.206. LIABILITY AND OBLIGATION OF EMPLOYER; WORKERS' COMPENSATION CLAIMS ~~[FOR PAYMENTS]~~. (a) An employer receiving an order or a writ of withholding under this chapter, including an order or writ directing that health insurance be provided to a child, who complies with the order or writ is not liable to the obligor for the amount of income withheld and paid as required by the order or writ.

(b) An employer receiving an order or writ of withholding who does not comply with the order or writ is liable:

(1) to the obligee for the amount not paid in compliance with the order or writ, including the amount the obligor is required to pay for health insurance under Chapter 154;

(2) to the obligor for:

(A) the amount withheld and not paid as required by the order or writ; and

(B) an amount equal to the interest that accrues under Section 157.265 on the amount withheld and not paid; and

(3) for reasonable attorney's fees and court costs.

(c) If an obligor has filed a claim for workers' compensation, the obligor's employer shall send a copy of the income withholding order or writ to the insurance carrier with whom the claim has been filed in order to continue the ordered withholding of income.

SECTION 40. Section 158.501, Family Code, is amended by adding Subsection (c) to read as follows:

(c) The Title IV-D agency may use the procedures authorized by this subchapter to enforce a support order rendered by a tribunal of another state regardless of whether the order has been registered under Chapter 159.

SECTION 41. Section 158.502(c), Family Code, is amended to read as follows:

(c) The Title IV-D agency may issue an administrative writ of withholding as a reissuance of an existing withholding order on file with the court of continuing jurisdiction or a tribunal of another state. The administrative writ under this subsection is not subject to the contest provisions of Sections 158.505(a)(2) and 158.506.

SECTION 42. Section 158.503(b), Family Code, is amended to read as follows:

(b) Not later than the third business day after the date of delivery of the administrative writ of withholding to an employer, the Title IV-D agency shall file a copy of the writ, together with a signed certificate of service, in the court of continuing jurisdiction. The certificate of service may be signed electronically. This subsection does not apply to the enforcement under Section 158.501(c) of a support order rendered by a tribunal of another state.

SECTION 43. Section 158.504(b), Family Code, is amended to read as follows:

(b) An administrative writ of withholding issued under this subchapter may contain only the information that is necessary for the employer to withhold income for child support and medical support and shall specify the place where the withheld income is to be paid [~~comply with the existing support order, including the amount of current support and medical support, the amount of arrearages, accrued interest, and the amount of earnings to be withheld~~].

SECTION 44. Section 158.505(a), Family Code, is amended to read as follows:

(a) On issuance of an administrative writ of withholding, the Title IV-D agency shall send the obligor:

(1) notice that the withholding has commenced, including, if the writ is issued as provided by Section 158.502(b), the amount of the arrearages, including accrued interest;

(2) except as provided by Section 158.502(c), notice of the procedures to follow if the obligor desires to contest withholding on the grounds that the identity of the obligor or the existence or amount of arrearages is incorrect; and

(3) a copy of the administrative writ, including the information concerning income withholding provided to the employer.

SECTION 45. Section 160.005(b), Family Code, is amended to read as follows:

(b) Except as provided under Section 154.131, on [On] a finding of parentage, the court may order support retroactive to the time of the birth of the child and, on a proper showing, may order a party to pay an equitable portion of all prenatal and postnatal health care expenses of the mother and child.

SECTION 46. Section 201.104, Family Code, is amended by adding Subsection (e) to read as follows:

(e) Only the referring court may render an order for postjudgment relief, including an order for a new trial.

SECTION 47. Section 201.1041(b), Family Code, is amended to read as follows:

(b) A master's report that recommends enforcement by contempt or the immediate incarceration of a party becomes an order of the referring court only if:

(1) the referring court signs an order adopting the master's recommendation; and

(2) the order meets the requirements of Section 157.166.

SECTION 48. Section 201.1042, Family Code, is amended by adding Subsection (g) to read as follows:

(g) Until a hearing is held on a timely filed appeal under this section, a master may not hold a hearing on the respondent's compliance with conditions in the master's report for suspension of incarceration.

SECTION 49. Subchapter B, Chapter 201, Family Code, is amended by adding Section 201.113 to read as follows:

Sec. 201.113. VISITING CHILD SUPPORT MASTER. (a) If a child support master appointed under this subchapter is temporarily unable to perform the master's official duties because of absence resulting from family circumstances, illness, injury, or disability, the presiding judge of the administrative judicial region in which the master serves may appoint a visiting child support master to perform the duties of the master during the period the master is unable to perform the master's duties.

(b) A person is not eligible for appointment under this section unless the person has served as a child support master or associate judge for at least two years before the date of appointment.

(c) A visiting master appointed under this section is subject to each provision of this chapter that applies to a child support master serving under a regular appointment. A visiting master appointed under this section is entitled to compensation to be determined by a majority vote of the presiding judges of the administrative judicial regions through use of funds under Section 201.105(b). A visiting judge is not considered a state employee for any purpose.

SECTION 50. Sections 203.004(a) and (c), Family Code, are amended to read as follows:

(a) A domestic relations office may:

(1) collect and disburse child support payments that are ordered by a court to be paid through a domestic relations registry;

(2) maintain records of payments and disbursements made under Subdivision (1);

(3) file a suit, including a suit to:

(A) establish paternity;

(B) enforce a court order for child support or for possession of and access to a child; and

(C) modify or clarify an existing child support order;

- (4) provide an informal forum in which:
- (A) mediation is used to resolve disputes in an action under Subdivision (3); or
  - (B) an agreed repayment schedule for delinquent child support is negotiated as an alternative to filing a suit to enforce a court order for child support under Subdivision (3);
- (5) prepare a court-ordered social study;
- (6) represent a child as guardian ad litem in a suit in which:
- (A) termination of the parent-child relationship is sought; or
  - (B) conservatorship of or access to a child is contested;
- (7) serve as a friend of the court;
- (8) provide predivorce counseling ordered by a court;
- (9) provide community supervision services under Chapter 157; ~~and~~
- (10) provide information to assist a party in understanding, complying with, or enforcing the party's duties and obligations under Subdivision (3); and
- (11) provide, directly or through a contract, visitation services, including supervision of court-ordered visitation, visitation exchange, or other similar services.

(c) A domestic relations office may:

- (1) hire or contract for the services of attorneys to assist the office in providing services under this chapter; and
- (2) employ community supervision officers or court monitors.

SECTION 51. Section 203.005(a), Family Code, is amended to read as follows:

(a) The administering entity may authorize a domestic relations office to assess and collect:

- (1) an initial operations fee not to exceed \$15 to be paid to the domestic relations office on the filing of a suit;
- (2) in a county that has a child support enforcement cooperative agreement with the Title IV-D agency, an initial child support service fee not to exceed \$36 to be paid to the domestic relations office on the filing of a suit;
- (3) a reasonable application fee to be paid by an applicant requesting services from the office;
- (4) a reasonable attorney's fee and court costs incurred or ordered by the court;
- (5) a monthly [~~child support~~] service fee not to exceed \$3 to be paid annually in advance by a managing conservator and possessory conservator for whom the domestic relations office provides services [~~acts as a local child support registry~~];
- (6) community supervision fees as provided by Chapter 157 if community supervision officers are employed by the domestic relations office; and
- (7) a reasonable fee for preparation of a court-ordered social study.

SECTION 52. Subchapter A, Chapter 231, Family Code, is amended by adding Section 231.015 to read as follows:

Sec. 231.015. INSURANCE REPORTING PILOT PROGRAM. (a) In consultation with the Texas Department of Insurance and representatives of the insurance industry in this state, including insurance trade associations, the

Title IV-D agency by rule shall establish a pilot program to improve the use of child support liens under Chapter 157. The pilot program shall develop processes under which insurance companies may voluntarily cooperate with the Title IV-D agency in identifying obligors who are subject to liens for child support arrearages to intercept certain liability insurance settlements or awards for claims in satisfaction of the arrearage amounts.

(b) An insurance company that provides information or otherwise responds to a notice of child support lien or levy under Subchapter G, Chapter 157, or acts in good faith to comply with procedures established in the pilot program under this section is not liable for those acts under any law to any person.

SECTION 53. Section 231.104(a), Family Code, is amended to read as follows:

(a) To the extent authorized by federal law, the approval of an application for or the receipt of financial assistance as provided by Chapter 31, Human Resources Code, constitutes an assignment to the Title IV-D agency of any rights to support from any other person that the applicant or recipient may have personally or for a child for whom the applicant or recipient is claiming assistance~~[, including the right to the amount accrued at the time the application is filed or the assistance is received].~~

SECTION 54. Sections 231.105(a) and (b), Family Code, are amended to read as follows:

(a) Child support payments for the benefit of a child whose support rights have been assigned to the Title IV-D agency under Section 231.104 shall be made payable to ~~[and transmitted to]~~ the Title IV-D agency and transmitted to the state disbursement unit as provided by Chapter 234.

(b) If a court has ordered support payments to be made to an applicant for or recipient of financial assistance or to an ~~[a person other than the]~~ applicant for or recipient of Title IV-D services, the Title IV-D agency shall, on providing notice to the obligee and the obligor, direct the obligor or other payor to make support payments payable to the Title IV-D agency and to transmit the payments to the state disbursement unit ~~[agency]~~. The Title IV-D agency shall file a copy of the notice with the court ordering the payments and with the child support registry. The notice must include:

(1) a statement that the child is an applicant for or recipient of financial assistance, or a child other than a recipient child for whom Title IV-D services are provided;

(2) the name of the child and the caretaker for whom support has been ordered by the court;

(3) the style and cause number of the case in which support was ordered; and

(4) instructions for the payment of ordered support to the agency.

SECTION 55. Section 231.204, Family Code, is amended to read as follows:

Sec. 231.204. PROHIBITED FEES IN TITLE IV-D CASES. Except as provided by this subchapter, an appellate court, a clerk of an appellate court, a district or county clerk, sheriff, constable, or other government officer or employee may not charge the Title IV-D agency or a private attorney or political subdivision that has entered into a contract to provide Title IV-D



services any fees or other amounts otherwise imposed by law for services rendered in, or in connection with, a Title IV-D case, including:

- (1) a fee payable to a district clerk for:
  - (A) performing services related to the estates of deceased persons or minors;
  - (B) certifying copies; or
  - (C) comparing copies to originals;
- (2) a court reporter fee, except as provided by Section 231.209;
- (3) a judicial fund fee;
- (4) a fee for a child support registry, enforcement office, or domestic relations office; ~~and~~
- (5) a fee for alternative dispute resolution services; and
- (6) a filing fee or other costs payable to a clerk of an appellate court.

SECTION 56. Section 231.302(b), Family Code, is amended to read as follows:

(b) A government agency, private company, institution, or other entity shall provide the information requested under Subsection (a) directly to the Title IV-D agency, without the requirement of payment of a fee for the information, and shall, subject to safeguards on privacy and information security, provide the information in the most efficient and expeditious manner available, including electronic or automated transfer and interface. Any individual or entity disclosing information under this section in response to a request from a Title IV-D agency may not be held liable in any civil action or proceeding to any person for the disclosure of information under this subsection.

SECTION 57. Section 231.307, Family Code, is amended by amending Subsections (a) and (e) and adding Subsection (f) to read as follows:

(a) The Title IV-D agency shall develop a system meeting the requirements of federal law (42 U.S.C. Sections 666(a)(4) and (17)) ~~[42 U.S.C. Section 666(a)(17)]~~ for the ~~[quarterly]~~ exchange of data with financial institutions doing business in the state to identify an account of an obligor owing past-due child support and to enforce support obligations against the obligor, including the imposition of a lien and a levy and execution on an obligor's assets held in financial institutions as required by federal law (42 U.S.C. Section 666(c)(1)(G)).

(e) In this section:

(1) "Financial institution" has the meaning assigned by ~~[42 U.S.C.]~~ Section 157.311 ~~[669a(d)(1)]~~; and

(2) "Account" has the meaning assigned by Section 157.311 ~~[means a demand deposit account, checking or negotiable withdrawal order account, savings account, time deposit account, or money market mutual fund account].~~

(f) A financial institution participating in data matches authorized by this section may provide the Title IV-D agency an address for the purpose of service of notices or process required in actions under this section or Subchapter G, Chapter 157.

SECTION 58. Section 232.001(4), Family Code, is amended to read as follows:

(4) "Subpoena" means a judicial or administrative subpoena issued in a parentage determination or child support proceeding under this title.

SECTION 59. Section 232.003, Family Code, is amended to read as follows:

Sec. 232.003. SUSPENSION OF LICENSE. (a) A court or the Title IV-D agency may issue an order suspending a license as provided by this chapter if an individual who is an obligor:

(1) owes overdue ~~[has a]~~ child support in an amount ~~[arrearage]~~ equal to or greater than the total support due for three months ~~[90 days]~~ under a support order;

(2) has been provided an opportunity to make payments toward the overdue child support ~~[arrearage]~~ under a court-ordered ~~[court order]~~ or ~~[an]~~ agreed repayment schedule; and

(3) has failed to comply with the repayment schedule.

(b) A court or the Title IV-D agency may issue an order suspending a license as provided by this chapter if a parent or alleged parent ~~[an individual]~~ has failed, after receiving appropriate notice, to comply with a subpoena.

SECTION 60. Section 232.005(a), Family Code, is amended to read as follows:

(a) A petition under this chapter must state that license suspension is required under Section 232.003 and allege:

(1) the name and, if known, social security number of the individual;

(2) with regard to each license, the type, and if known, number of any license the individual is believed to hold and the name of the licensing authority that issued the license; and

(3) the amount of arrearages owed under the child support order or the facts associated with the individual's failure to comply with a subpoena.

SECTION 61. Section 232.009, Family Code, is amended to read as follows:

Sec. 232.009. DEFAULT ORDER. The court or Title IV-D agency shall consider the allegations of the petition for suspension to be admitted and shall render an order suspending the license of an obligor without the requirement of a hearing if the court or Title IV-D agency determines that the individual failed to[:

~~[(+)]~~ respond to a notice issued under Section 232.006 by:

~~(1) requesting~~;

~~[(2) request]~~ a hearing; or

~~(2) appearing~~ ~~[(3) appear]~~ at a scheduled hearing.

SECTION 62. Section 232.011, Family Code, is amended by adding Subsection (i) to read as follows:

(i) An order issued under this chapter to suspend a license applies to each license issued by the licensing authority subject to the order for which the obligor is eligible. The licensing authority may not issue or renew any other license for the obligor until the court or the Title IV-D agency renders an order vacating or staying an order suspending license.

SECTION 63. Section 232.015(b), Family Code, is amended to read as follows:

(b) A licensing authority shall provide the requested information in the form and manner identified ~~[agreed to]~~ by the Title IV-D agency ~~[and the licensing authority]~~.

SECTION 64. Section 233.006, Family Code, is amended to read as follows:

Sec. 233.006. CONTENTS OF NOTICE OF CHILD SUPPORT REVIEW.

(a) The notice of child support review issued by the Title IV-D agency must:

(1) describe the procedure for a child support review, including the procedures for requesting a negotiation conference;

(2) inform the recipient that the recipient may be represented by legal counsel during the review process or at a court hearing; and

(3) inform the recipient that the recipient may refuse to participate or cease participation in the child support review process, but that the refusal by the recipient to participate will not prevent the completion of the process or the filing of a child support review order[;

~~[(4) include an affidavit of financial resources to be executed by the recipient; and~~

~~[(5) include a request that the recipient designate, on a form provided by the Title IV-D agency, an address for mailing any subsequent notice to the recipient].~~

(b) In addition to the information required by Subsection (a), the notice of child support review may ~~must~~ inform the recipient that:

(1) an affidavit of financial resources included with the notice must be executed by the recipient and [the information requested on the form must be] returned to the Title IV-D agency not later than the 15th day after the date the notice is received or delivered; and

(2) if the requested affidavit of financial resources ~~[information]~~ is not returned as required, the agency may:

(A) proceed with the review using the information that is available to the agency; and

(B) file a legal action without further notice to the recipient, except as otherwise required by law.

SECTION 65. Section 233.009, Family Code, is amended by adding Subsection (f) to read as follows:

(f) Notwithstanding any other provision of this chapter, if the parties have agreed to the terms of a proposed child support review order and each party has signed the order, including a waiver of the right to service of process as provided by Section 233.018, the Title IV-D agency may immediately present the order and waiver to the court for confirmation without conducting a negotiation conference or requiring the production of financial information.

SECTION 66. Section 233.0095, Family Code, is amended by adding Subsection (f) to read as follows:

(f) Notwithstanding any other provision of this chapter, if paternity has been acknowledged, the parties have agreed to the terms of a proposed child support review order, and each party has signed the order, including a waiver of the right to service of process as provided by Section 233.018, the Title IV-D agency may immediately present the order and waiver to the court for confirmation without conducting a negotiation conference or requiring the production of financial information.

SECTION 67. Section 233.018(a), Family Code, is amended to read as follows:

(a) If a negotiation conference results in an agreement of the parties, each party must sign the child support review order and the order must contain as to each party:

- (1) a waiver by the party of the right to service of process and a court hearing and the making of a record on the petition for confirmation;
- (2) the mailing address of the party; and
- (3) the following statement printed on the order in boldfaced type, in capital letters, or underlined:

"I ACKNOWLEDGE THAT I HAVE READ AND UNDERSTAND [KNOW THAT I DO NOT HAVE TO SIGN] THIS CHILD SUPPORT REVIEW ORDER. I UNDERSTAND THAT IF I SIGN THIS ORDER, IT WILL BE CONFIRMED BY THE COURT WITHOUT FURTHER NOTICE TO ME. I KNOW THAT I HAVE A RIGHT TO REQUEST THAT A COURT RECONSIDER THE ORDER BY FILING A MOTION FOR A NEW TRIAL AT ANY TIME BEFORE THE 30TH DAY AFTER THE DATE OF THE CONFIRMATION OF THE ORDER BY THE COURT. I KNOW THAT IF I DO NOT OBEY THE TERMS OF THIS ORDER I MAY BE HELD IN CONTEMPT OF COURT."

SECTION 68. Section 233.024(a), Family Code, is amended to read as follows:

- (a) If the court finds that all parties have appropriately agreed to a child support review order and that there is waiver of service, the court shall sign the order not later than the third day after the filing of the order. The court may sign the order before filing the order, but the signed order shall immediately be filed.

SECTION 69. Section 234.001, Family Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

- (a) The Title IV-D agency shall establish and operate a state case registry and state disbursement unit meeting the requirements of 42 U.S.C. Sections 654a(e) and 654b and this subchapter.

- (c) The state disbursement unit shall:

- (1) receive, maintain, and furnish records of child support payments in Title IV-D cases and other cases as authorized ~~[required]~~ by law;
- (2) forward child support payments as authorized ~~[required]~~ by law;
- (3) maintain child support payment records made through the state disbursement unit; and

- (4) make available to a local registry each day in a manner determined by the Title IV-D agency with the assistance of the work group established under Section 234.003 the following information:

(A) the cause number of the suit under which withholding is required;

(B) the payor's name and social security number;

(C) the payee's name and, if available, social security number;

(D) the date the disbursement unit received the payment;

(E) the amount of the payment; and

(F) the instrument identification information.

- (d) A certified child support payment record produced by the state disbursement unit is admissible as evidence of the truth of the information contained in the record and does not require further authentication or verification.

SECTION 70. Section 234.004, Family Code, is amended to read as follows:

Sec. 234.004. CONTRACTS AND COOPERATIVE AGREEMENTS. (a) The Title IV-D agency may enter into contracts and cooperative agreements as necessary to establish and operate the state case registry and state disbursement unit authorized under this subchapter.

(b) To the extent funds are available for this purpose, the Title IV-D agency may enter into contracts or cooperative agreements to process through the state disbursement unit child support collections in cases not otherwise eligible under 42 U.S.C. Section 654b.

SECTION 71. Section 234.006, Family Code, as added by Chapter 556, Acts of the 76th Legislature, Regular Session, 1999, is amended to read as follows:

Sec. 234.006. EFFECTIVE DATE AND PROCEDURES. The Title IV-D agency ~~shall~~, in cooperation with the work group established under Section 234.003, may adopt rules~~;~~ in compliance with federal law~~;~~ ~~that establish the definitions for, and the date of and the procedures~~ for~~;~~

~~[(1)]~~ [(1)] the operation of the state case registry and the state disbursement unit~~;~~ ~~and~~

~~[(2) the return of payments made in error or delivered to the state disbursement unit with insufficient information for disbursement].~~

SECTION 72. Section 730.005, Transportation Code, is amended to read as follows:

Sec. 730.005. REQUIRED DISCLOSURE. Personal information obtained by an agency in connection with a motor vehicle record shall be disclosed for use in connection with any matter of:

- (1) motor vehicle or motor vehicle operator safety;
- (2) motor vehicle theft;
- (3) motor vehicle emissions;
- (4) motor vehicle product alterations, recalls, or advisories;
- (5) performance monitoring of motor vehicles or motor vehicle dealers by a motor vehicle manufacturer; ~~[or]~~

(6) removal of nonowner records from the original owner records of a motor vehicle manufacturer to carry out the purposes of:

(A) the Automobile Information Disclosure Act, 15 U.S.C. Section 1231 et seq.;

(B) 49 U.S.C. Chapters 301, 305, 323, 325, 327, 329, and 331;

(C) the Anti Car Theft Act of 1992, 18 U.S.C. Sections 553, 981, 982, 2119, 2312, 2313, and 2322, 19 U.S.C. Sections 1646b and 1646c, and 42 U.S.C. Section 3750a et seq., all as amended;

(D) the Clean Air Act, 42 U.S.C. Section 7401 et seq., as amended; and

(E) any other statute or regulation enacted or adopted under or in relation to a law included in Paragraphs (A)-(D); or

(7) child support enforcement under Chapter 231, Family Code.

SECTION 73. Title 5, Finance Code, is amended by adding Chapter 396 to read as follows:

CHAPTER 396. PRIVATE CHILD SUPPORT  
ENFORCEMENT AGENCIES  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 396.001. DEFINITIONS. In this chapter:

(1) "Child support enforcement" means an action, conduct, or practice in enforcing, or in soliciting for enforcement, a child support obligation, including the collection of an amount owed under a child support obligation.

(2) "Child support obligation" means an obligation for the payment of financial support for a child under an order or writ issued by a court or other tribunal.

(3) "Department" means the Texas Department of Banking.

(4) "Foreign agency" means a private child support enforcement agency that engages in business in this state solely by use of telephone, mail, the Internet, facsimile transmission, or any other means of interstate communication.

(5) "Obligee" means the person identified in an order for child support issued by a court or other tribunal as the payee to whom an obligor's amounts of ordered child support are due.

(6) "Obligor" means the person identified in an order for child support issued by a court or other tribunal as the individual required to make payment under the terms of a support order for a child.

(7) "Private child support enforcement agency" means an individual or nongovernmental entity who engages in the enforcement of child support ordered by a court or other tribunal for a fee or other consideration. The term does not include:

(A) an attorney enforcing a child support obligation on behalf of, and in the name of, a client unless the attorney has an employee who is not an attorney and who on behalf of the attorney:

(i) regularly solicits for child support enforcement; or

(ii) regularly contacts child support obligees or obligors for the purpose of child support enforcement;

(B) a state agency designated to serve as the state's Title IV-D agency in accordance with Part D, Title IV, Social Security Act (42 U.S.C. Section 651 et seq.), as amended; or

(C) a contractor awarded a contract to engage in child support enforcement on behalf of a governmental agency, including a contractor awarded a contract:

(i) under Chapter 236, Family Code; or

(ii) by a political subdivision of this or another state that is authorized by law to enforce a child support obligation.

(8) "Registered agency" means a private child support enforcement agency, including a foreign agency, that is registered under this chapter.

[Sections 396.002-396.050 reserved for expansion]

SUBCHAPTER B. POWERS AND DUTIES OF DEPARTMENT

Sec. 396.051. ADMINISTRATIVE AND RULEMAKING AUTHORITY.

(a) The department shall administer this chapter.

(b) The Finance Commission of Texas shall adopt rules as necessary for the administration of this chapter.

Sec. 396.052. FILING FEE. (a) The department shall charge each applicant for a certificate of registration, or renewal of a certificate, a nonrefundable fee of \$500 for each certificate.

(b) The application fee is due on the date the applicant submits an application for registration. The renewal fee is due on the date a certificate holder submits an application to renew a registration.

Sec. 396.053. COST OF REGULATION. The department may charge each registered private child support enforcement agency an annual fee not to exceed \$500 to cover the cost of enforcing this chapter.

[Sections 396.054-396.100 reserved for expansion]

#### SUBCHAPTER C. REGISTRATION

Sec. 396.101. REGISTRATION REQUIRED. Except as otherwise provided by this chapter, a private child support enforcement agency must register with the department to engage in child support enforcement in this state.

Sec. 396.102. RECOGNITION OF AUTHORIZATION ISSUED BY ANOTHER STATE. (a) The department may waive any prerequisite to obtaining a registration for a foreign agency:

(1) after reviewing the applicant's credentials and determining that the applicant holds a valid registration or other authorization from another state whose requirements are substantially equivalent to those imposed under this chapter; or

(2) after determining the applicant has a valid registration or other authorization from another state with which this state has a reciprocity agreement.

(b) The department may enter into an agreement with another state to permit registration by reciprocity.

Sec. 396.103. APPLICATION REQUIREMENTS. (a) An applicant for registration as a private child support enforcement agency must file with the department an application on a form and in the manner prescribed by the department.

(b) The application must state:

(1) the name of the applicant;

(2) the name under which the applicant is doing or intends to do business in this state, if different from the applicant's name;

(3) the address of the applicant's principal business office, including the state, municipality, and numeric street address; and

(4) any Internet or other electronic mail address and business telephone number of the applicant.

(c) The chief executive officer of the applicant agency shall state in a notarized statement that the application is accurate and truthful in all respects.

Sec. 396.104. FINANCIAL AND OTHER DISCLOSURES. The department shall require an applicant for registration or renewal of registration as a private child support enforcement agency to provide:

(1) a certified financial statement demonstrating the financial solvency of the agency for which registration or renewal of registration is sought; and

(2) any other information the department may reasonably require the

applicant to provide to establish that the requirements and qualifications for registration or renewal of registration have been fulfilled by the applicant.

Sec. 396.105. SURETY BOND OR OTHER DEPOSIT REQUIRED. (a) An application for registration must be accompanied by a surety bond approved by the department.

(b) The surety bond must be:

(1) issued by a surety authorized to do business in this state;

(2) in the amount of \$50,000;

(3) in favor of the state for the benefit of a person damaged by a violation of this chapter; and

(4) conditioned on the private child support enforcement agency's compliance with this chapter and the faithful performance of the obligations under the agency's agreements with its clients.

(c) The surety bond must be filed with and held by the department.

(d) Instead of a surety bond, the department may accept a deposit of money in an amount determined by the department not to exceed \$50,000. The department shall deposit any amounts received under this subsection in an insured depository account designated for that purpose.

Sec. 396.106. ISSUANCE OF CERTIFICATE OF REGISTRATION. (a) The department shall issue a certificate of registration and mail the certificate to the applicant on receipt of:

(1) a completed application;

(2) evidence of financial solvency;

(3) the surety bond or deposit of money required by Section 396.105;

and

(4) the required registration fee.

(b) If a single application is used to register more than one registered location, the department shall:

(1) issue a certificate of registration for each registered location; and

(2) mail all of the certificates to the principal business location stated in the application.

Sec. 396.107. DUTY TO UPDATE APPLICATION INFORMATION. A certificate holder shall notify the department of any material change in the information provided in an application for registration not later than the 60th day after the date on which the information changes.

Sec. 396.108. TERM OF REGISTRATION; RENEWAL. (a) A private child support enforcement agency's certificate of registration expires on the third anniversary of the date of issuance.

(b) A certificate of registration may be renewed for another three-year period as provided by department rule.

[Sections 396.109-396.150 reserved for expansion]

#### SUBCHAPTER D. AUTHORITY OF FOREIGN AGENCY TO ENGAGE IN BUSINESS IN THIS STATE

Sec. 396.151. APPLICATION TO OPERATE UNDER OTHER AUTHORIZATION INSTEAD OF REGISTRATION. (a) To engage in business in this state, a foreign agency that is exempt from registration as prescribed by Section 396.102 may file an application with the department to operate under that authorization by filing:



(1) the information required for an application for registration under Section 396.103;

(2) a surety bond or deposit of money that meets the requirements of Section 396.105 unless the agency provides proof to the satisfaction of the department that the agency maintains in the state in which that agency has its principal office an adequate bond or similar instrument for purposes similar to the purposes required for the filing of a surety bond under Section 396.105; and

(3) a copy of the license or other authorization issued by the state in which that agency is authorized to operate.

(b) The department may charge a single administrative fee in a reasonable amount that is sufficient to cover the costs of the department in processing and acting on the application.

Sec. 396.152. ACCEPTANCE OF OTHER AUTHORIZATION INSTEAD OF REGISTRATION. The department shall issue a certificate to operate under another state's authorization in this state to a foreign agency that files an application with the department under Section 396.151 if:

(1) the agency submits all of the information required by Section 396.151(a)(1);

(2) the department determines that the agency has met the requirements of Section 396.151(a)(2);

(3) the agency remits any required administrative fee under Section 396.151(b); and

(4) the department verifies that the registration or other authorization issued by another state is active and in good standing.

Sec. 396.153. NOTIFICATION OF UPDATED INFORMATION OR CHANGE IN STATUS OF OTHER AUTHORIZATION. Not later than the 30th day after the date on which the change occurs, a foreign private child support enforcement agency that is issued a certificate to operate in this state under this subchapter shall notify the department of any change in:

(1) the information provided in an application submitted under Section 396.152; or

(2) the status of the agency's authorization in the other state.

Sec. 396.154. WITHDRAWAL OF APPROVAL TO OPERATE UNDER OTHER AUTHORIZATION. A holder of a certificate issued under this subchapter may not engage in business in this state as a private child support enforcement agency if another state has revoked or withdrawn the person's authority to operate as a private child support enforcement agency in that state unless the department grants the agency a registration under this chapter.

[Sections 396.155-396.200 reserved for expansion]

#### SUBCHAPTER E. REQUIRED BUSINESS PRACTICES

Sec. 396.201. REGISTRATION PREREQUISITE TO SUIT. A private child support enforcement agency may not bring an action to enforce a child support obligation in this state unless the agency is registered or otherwise authorized to engage in business in this state as provided by this chapter.

Sec. 396.202. RECORDS. (a) A registered agency shall maintain records of all child support collections made on behalf of, and disbursed to, a client who is an obligee, including:

(1) the name of any obligor who made child support payments collected by the agency;

(2) the amount of support collected by the agency for each client, including:

(A) the date on which the amount was collected; and

(B) the date on which each amount due the client by the obligor was paid to the client;

(3) a copy of the order establishing the child support obligation under which a collection was made by the agency; and

(4) any other pertinent information relating to the child support obligation, including any case, cause, or docket number of the court having jurisdiction over the matter.

(b) The records required under this section must be updated at least monthly and must be maintained by the registered agency for a period of four years from the date of the last support payment collected by the agency on behalf of an obligee.

Sec. 396.203. CONTRACT FOR SERVICES. (a) A registered agency and foreign agency authorized to engage in business under this chapter shall execute a written contract for the enforcement of child support for each client of the agency that is residing in this state.

(b) The contract required under this section must:

(1) be in writing, dated, and signed by both parties to the contract; and

(2) specify its terms in clear language.

[Sections 396.204-396.250 reserved for expansion]

#### SUBCHAPTER F. PROHIBITED PRACTICES

Sec. 396.251. THREATS OR COERCION. (a) In enforcing a child support obligation, a registered agency may not use threats, coercion, or attempts to coerce that employ any of the following practices:

(1) using or threatening to use violence or other criminal means to cause harm to an obligor or property of the obligor;

(2) accusing falsely or threatening to accuse falsely an obligor of a violation of state or federal child support laws;

(3) taking or threatening to take an enforcement action against an obligor that is not authorized by law; or

(4) intentionally representing to a person that the agency is a governmental agency authorized to enforce a child support obligation.

(b) Subsection (a) does not prevent a registered agency from:

(1) informing an obligor that the obligor may be subject to penalties prescribed by law for failure to pay a child support obligation; or

(2) taking, or threatening to take, an action authorized by law for the enforcement of a child support obligation by the agency.

Sec. 396.252. FRAUDULENT, DECEPTIVE, OR MISLEADING REPRESENTATIONS. In enforcing a child support obligation, a registered agency or employee of the agency may not:

(1) identify the registered agency by any name other than one by which the agency is registered with the department;

(2) falsely represent the nature of the child support enforcement activities in which the agency is authorized by law to engage; or

(3) falsely represent that an oral or written communication is the communication of an attorney.

[Sections 396.253-396.300 reserved for expansion]

#### SUBCHAPTER G. ADMINISTRATIVE ENFORCEMENT

Sec. 396.301. REVOCATION OF REGISTRATION. (a) After notice and hearing, the department may revoke the registration of a registered agency that:

(1) fails to comply with this chapter or a rule adopted under this chapter;

(2) does not pay a fee or other charge imposed by the department under this chapter; and

(3) fails to maintain and produce at the request of the department records attesting to the financial solvency of the registered agency or other business records concerning client accounts.

(b) The department may permit a registered agency to take an appropriate action to correct a failure to comply with this chapter and not revoke the registration of the agency.

Sec. 396.302. ADMINISTRATIVE HEARING ON DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION. (a) The department may not deny or suspend the registration of a private child support enforcement agency under this chapter without first conducting an administrative hearing.

(b) A hearing under this section or Section 396.301 is subject to Chapter 2001, Government Code.

Sec. 396.303. BONA FIDE ERROR. A registered agency does not violate this chapter if the action complained of resulted from a bona fide error that occurred notwithstanding the use of reasonable procedures to avoid the error.

Sec. 396.304. ADMINISTRATIVE INVESTIGATION OF COMPLAINT. (a) A person may file with the department a written complaint against a registered agency for a violation of this chapter.

(b) Not later than the 30th day after the date on which the department receives a complaint under this section, the department shall initiate an investigation into the merits of the complaint.

(c) The department may appoint a hearings officer to conduct the investigation.

(d) A hearings officer appointed by the department to investigate a complaint may arrange for the services of a qualified mediator and attempt to:

(1) resolve the complaint and any differences between the parties; and

(2) reach a settlement without the requirement of further investigation.

(e) The department may delegate to a hearings officer appointed to investigate a complaint under this section the authority to dismiss the complaint, after an initial investigation and after notice to each affected party and an opportunity for hearing, for lack of sufficient evidentiary basis.

(f) An individual aggrieved by a decision of the department or hearings officer under this section may appeal the decision to a district court in Travis County.

(g) The department shall provide for an annual public inspection of an investigation report of a complaint filed under this section.

[Sections 396.305-396.350 reserved for expansion]

SUBCHAPTER H. CIVIL REMEDIES

Sec. 396.351. CIVIL ACTION. (a) In addition to any other remedy provided by this chapter, a person may bring an action for:

(1) injunctive relief to enjoin or restrain a violation of this chapter;  
and

(2) actual damages incurred as a result of a violation of this chapter.

(b) A person who prevails in an action brought under this section is entitled to recover court costs and reasonable attorney's fees.

(c) On a finding by a court that an action under this section was brought in bad faith or for purposes of harassment, the court shall award the defendant attorney's fees reasonably related to the work performed and costs.

Sec. 396.352. SERVICE OF PROCESS OUTSIDE STATE. (a) A registered agency that is located in another state or a private child support enforcement agency that engages in the business of child support enforcement in this state in violation of this chapter is considered to have submitted to the jurisdiction of the courts of this state with respect to an action brought under this chapter.

(b) A foreign agency engaging in business in this state in violation of this chapter is considered to have appointed the department as the agency's agent for service of process in any action, suit, or proceeding arising from a violation of this chapter.

Sec. 396.353. REMEDIES UNDER OTHER LAW. (a) A violation of this chapter is a deceptive trade practice under Subchapter E, Chapter 17, Business & Commerce Code, and is actionable under that subchapter.

(b) This chapter does not affect or alter a remedy at law or in equity otherwise available to an obligor, obligee, governmental entity, or other legal entity.

SECTION 74. Section 411.127, Government Code, is amended to read as follows:

Sec. 411.127. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION: APPLICANTS FOR EMPLOYMENT AND CONTRACTORS.

(a) The Title IV-D agency is entitled to obtain from the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency criminal history record information maintained by the department or agency that relates to a person who is an applicant for a position of employment with the Title IV-D agency, or an applicant to serve as a consultant, intern, or volunteer, that involves the performance of duties under Chapter 231, Family Code. The Title IV-D agency may not request the information unless a supervisory employee of the agency has recommended that the applicant be hired or serve as an intern or volunteer.

(b) The Title IV-D agency is entitled to obtain from the Department of Public Safety, Federal Bureau of Investigation identification division, or another law enforcement agency criminal history record information

maintained by the department or agency that relates to a person who proposes to enter into a contract with or that has a contract with the Title IV-D agency to supply goods or services to the Title IV-D agency. The authorization under this subsection to obtain criminal history record information about a person includes information relating to an employee or subcontractor of the person or an employee of the person's subcontractor.

(c) Criminal history record information obtained by the Title IV-D agency under Subsection (a) or (b) may not be released or disclosed to any person except on court order or with the consent of the person who is the subject of the criminal history record information.

(d) ~~(c)~~ The Title IV-D agency shall destroy criminal history record information that relates to a person after the information is used for its authorized purpose.

(e) ~~(d)~~ In this section, "Title IV-D agency" has the meaning assigned by Section 101.033, Family Code.

SECTION 75. Section 3, Article 21.22, Insurance Code, is amended to read as follows:

Sec. 3. The exemptions provided by Section 1 of this article do not apply to:

(1) premium payments made in fraud of creditors subject to the applicable statute of limitations for the recovery of the premium payments; ~~or~~

(2) a debt of the insured or beneficiary secured by a pledge of the policy or its proceeds; or

(3) a child support lien or levy under Chapter 157, Family Code.

SECTION 76. Sections 158.508 and 231.010, Family Code, are repealed.

SECTION 77. (a) This Act takes effect September 1, 2001.

(b) A change in law made by this Act relating to a court order establishing the obligation to pay child support applies only to a suit affecting the parent-child relationship that is commenced on or after the effective date of this Act. A suit affecting the parent-child relationship commenced before the effective date of this Act is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

(c) A change in law made by this Act relating to the modification or enforcement of a child support order rendered before the effective date of this Act applies only to a proceeding for modification or enforcement that is commenced on or after the effective date of this Act. A modification or enforcement proceeding commenced before the effective date of this Act is governed by the law in effect on the date the proceeding was commenced, and the former law is continued in effect for that purpose.

(d) The requirement of Chapter 396, Finance Code, as added by this Act, that a private child support enforcement agency be registered applies only on or after January 1, 2002.

### LEAVE OF ABSENCE GRANTED

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

S. Turner on motion of Deshotel.

**HB 1403 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1403**, A bill to be entitled An Act relating to the eligibility of certain persons to qualify as residents of this state for purposes of higher education tuition.

On motion of Representative Noriega, the house concurred in the senate amendments to **HB 1403** by (Record 559): 130 Yeas, 2 Nays, 2 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hawley; Heflin; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Marchant; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Pickett; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Nays — Hartnett; Madden.

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

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; Turner, S.; West.

Absent, Excused, Committee Meeting — Dunnam; Hardcastle; Olivo; Sadler; Smith.

Absent — Dukes; Hilderbran; Maxey; McClendon; Moreno, P.

**Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **CSHB 1403** in SECTION 2, in proposed Section 54.052(j), Education Code, by striking Subdivision (2) and substituting the following:

(2) resided in this state for at least three years as of the date the person graduated from high school or received the equivalent of a high school diploma;

**Senate Amendment No. 2 (Senate Floor Amendment No. 2)**

Amend **CSHB 1403** in SECTION 2, in proposed Section 54.052(j), Education Code, by striking Subdivision (4) and substituting the following:

(4) provides to the institution an affidavit stating that the individual will file an application to become a permanent resident at the earliest opportunity the individual is eligible to do so.

**HB 1408 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1408**, A bill to be entitled An Act relating to the refund of unearned premiums by an insurer.

(Speaker in the chair)

On motion of Representative Counts, the house concurred in the senate amendments to **HB 1408**.

**Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 1408** as follows:

Replace page 2, lines 21-23 to read:

(c) A guaranty association shall promptly refund any unearned premium defined in Article 21.28-C, Section 5(8) and Article 21.28-D, Section 5(10).

**HB 1418 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

Representative J. Jones called up with senate amendments for consideration at this time,

**HB 1418**, A bill to be entitled An Act relating to certain employees of nursing homes and related institutions.

On motion of Representative J. Jones, the house concurred in the senate amendments to **HB 1418**.

**Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 1418** as follows:

(1) Strike SECTIONS 3 and 4 of the bill (Senate committee printing, page 1, lines 44-64, and page 2, lines 1-25).

(2) Add the following appropriately numbered SECTIONS to the bill and renumber the remaining SECTIONS of the bill as appropriate:

SECTION \_\_\_\_\_. Section 250.002, Health and Safety Code, is amended to read as follows:

Sec. 250.002. INFORMATION OBTAINED BY FACILITY, REGULATORY AGENCY, OR PRIVATE AGENCY. (a) A facility, a regulatory agency, or a private agency on behalf of a facility is entitled to obtain from the Department of Public Safety of the State of Texas criminal history record information maintained by the Department of Public Safety that relates to a person who is:

(1) an applicant for employment at a facility other than a facility licensed under Chapter 142;

(2) [~~licensed, certified, or under contract with the agency, as specified by Section 250.001(3), or who is~~] an employee of a [~~that~~] facility other than a facility licensed under Chapter 142; or

(3) an applicant for employment at or an employee of a facility licensed under Chapter 142[~~, and~~] whose employment duties would or do involve direct contact with a consumer in the [a] facility.

(b) A facility may:

(1) pay a private agency to obtain criminal history record

information for an applicant or employee described by Subsection (a) directly from the Department of Public Safety of the State of Texas; or

(2) obtain the information directly from the Department of Public Safety [from the regulatory agency that obtains the information from the Department of Public Safety of the State of Texas regarding that facility].

(c) The ~~[regulatory agency or]~~ private agency~~[-, as appropriate,]~~ shall forward criminal history record information received under this section to the facility requesting the information.

(d) A regulatory agency may adopt rules relating to the processing of information requested or obtained under this chapter.

SECTION \_\_\_\_\_. Section 250.003, Health and Safety Code, is amended to read as follows:

Sec. 250.003. VERIFICATION OF EMPLOYABILITY; DISCHARGE.

(a) A facility may not employ a person ~~[in a position the duties of which involve direct contact with a consumer in the facility]~~ if the facility determines, as a result of a criminal history check, that a person has been convicted of an offense listed in this chapter that bars employment or that a conviction is a contraindication to employment with the consumers the facility serves, and if the applicant is a nurse aide, until the facility further verifies that the applicant is listed in the nurse aide registry and verifies that the applicant is not designated in the registry as having a finding entered into the registry concerning abuse, neglect, or mistreatment of a consumer of a facility, or misappropriation of a consumer's property. A person licensed under another law of this state is exempt from the requirements of this chapter.

(b) The facility may not employ an applicant covered by Subsection (a), except that in an emergency requiring immediate employment, a facility may hire on a temporary or interim basis a person not listed in the registry pending the results of a criminal conviction check, which must be requested within 72 hours of employment. ~~[The request shall be mailed, sent by telephonic facsimile machine, sent by electronic means, or otherwise forwarded to the facility's regulatory agency by the facility or a private agency working with the facility, or to the Department of Public Safety of the State of Texas by a private agency working with the facility.]~~

(c) A facility shall immediately discharge any employee ~~[in a position the duties of which involve direct contact with a consumer in the facility]~~ who is designated in the nurse aide registry or the employee misconduct registry established under Chapter 253 as having committed an act of abuse, neglect, or mistreatment of a consumer of a facility, or misappropriation of a consumer's property, or whose criminal history check reveals conviction of a crime that bars employment or that the facility determines is a contraindication to employment as provided by this chapter.

SECTION \_\_\_\_\_. Subsection (a), Section 250.004, Health and Safety Code, is amended to read as follows:

(a) Identifying information of an employee ~~[in direct contact with a consumer]~~ in a covered facility shall be submitted electronically, on disk, or on a typewritten form to the Department of Public Safety to obtain the person's criminal conviction record when the person applies for employment and at other times as the facility may determine appropriate. In this subsection, "identifying information" includes:



- (1) the complete name, race, and sex of the employee;
- (2) any known identifying number of the employee, including social security number, driver's license number, or state identification number; and
- (3) the employee's date of birth.

SECTION \_\_\_\_\_. Section 250.006, Health and Safety Code, is amended to read as follows:

Sec. 250.006. **CONVICTIONS BARRING EMPLOYMENT.** (a) A person for whom the facility is entitled to obtain criminal history record information may not be employed in a facility if the person has been convicted of an offense listed in this subsection [section may not be employed in a position the duties of which involve direct contact with a consumer in a facility]:

- (1) an offense under Chapter 19, Penal Code (criminal homicide);
- (2) an offense under Chapter 20, Penal Code (kidnapping and unlawful restraint [false imprisonment]);
- (3) an offense under Section 21.11, Penal Code (indecent with a child);
- (4) an offense under Section 22.011, Penal Code (sexual assault);
- (5) an offense under Section 22.02, Penal Code (aggravated assault);
- (6) an offense under Section 22.04, Penal Code (injury to a child, elderly individual, or disabled individual);
- (7) an offense under Section 22.041, Penal Code (abandoning or endangering child);
- (8) an offense under Section 22.08, Penal Code (aiding suicide);
- (9) an offense under Section 25.031, Penal Code (agreement to abduct from custody);
- (10) an offense under Section 25.08, Penal Code (sale or purchase of a child);
- (11) an offense under Section 28.02, Penal Code (arson);
- (12) an offense under Section 29.02, Penal Code (robbery); ~~[or]~~
- (13) an offense under Section 29.03, Penal Code (aggravated robbery); or
- (14) a conviction under the laws of another state, federal law, or the Uniform Code of Military Justice for an offense containing elements that are substantially similar to the elements of an offense listed under Subdivisions (1)-(13).

(b) A person convicted of an offense under Chapter 31, Penal Code, that is punishable as a felony may not be employed in a position the duties of which involve direct contact with a consumer in a facility before the fifth anniversary of the date of the conviction.

### **HB 1445 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1445**, A bill to be entitled An Act relating to the authority of municipalities and counties to regulate subdivisions in the extraterritorial jurisdiction of a municipality.

On motion of Representative B. Turner, the house concurred in the senate amendments to **HB 1445**.

**Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 1445** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 242.001, Local Government Code, is amended to read as follows:

Sec. 242.001. REGULATION OF SUBDIVISIONS GENERALLY. (a) This section applies only to a county operating under Sections 232.001-232.005 or Subchapter B or C, Chapter 232. Subsections (b)-(e) do not apply:

(1) within a county that contains extraterritorial jurisdiction of a municipality with a population of 1.9 million or more; or

(2) within a county within 50 miles of an international border, or to which Subchapter C, Chapter 232 applies.

~~(b) For an area in a municipality's extraterritorial jurisdiction, as defined by Section 212.001, a plat may not be filed with the county clerk without the approval of [both] the governmental entity authorized under Subsection (c) or (d) to regulate subdivisions in the area [municipality and the county. However, if one of those governmental entities requires a plat to be filed for the subdivision of a particular tract of land in the extraterritorial jurisdiction of the municipality and the other governmental entity does not require the filing of a plat for that subdivision, the authority responsible for approving plats for the governmental entity that does not require the filing shall issue on request of the subdivider a written certification stating that a plat is not required to be filed for that subdivision of the land. The certification must be attached to a plat required to be filed under this subsection].~~

(c) Except as provided by Subsections (d)(3) and (4), a municipality and a county may not both regulate subdivisions in [m] the extraterritorial jurisdiction of a municipality after an agreement under Subsection (d) is executed. The municipality and the county shall enter into a written agreement that identifies the governmental entity authorized to regulate subdivision plats and approve related permits in the extraterritorial jurisdiction. For a municipality in existence on September 1, 2001, the municipality and county shall enter into a written agreement under this subsection on or before April 1, 2002. For a municipality incorporated after September 1, 2001, the municipality and county shall enter into a written agreement under this subsection not later than the 120th day after the date the municipality incorporates. The municipality and the county shall adopt the agreement by order, ordinance, or resolution. The agreement must be amended by the municipality and the county if necessary to take into account an expansion or reduction in the extraterritorial jurisdiction of the municipality. The municipality shall notify the county of any expansion or reduction in the municipality's extraterritorial jurisdiction. Any expansion or reduction in the municipality's extraterritorial jurisdiction that affects property that is subject to a preliminary or final plat filed with the municipality or that was previously approved under Section 212.009 does not affect any rights accrued under Chapter 245. The approval of the plat or any permit remains effective as provided by Chapter 245 regardless of the change in designation as extraterritorial jurisdiction of the municipality.

(d) An agreement under Subsection (c) may grant the authority to

regulate subdivision plats and approve related permits in the extraterritorial jurisdiction of a municipality as follows:

(1) [;] the municipality may be granted exclusive jurisdiction to regulate subdivision plats and approve related permits in the extraterritorial jurisdiction and may regulate subdivisions under Subchapter A of Chapter 212 and other statutes applicable to municipalities;

(2) [~~;~~and] the county may be granted exclusive jurisdiction to regulate subdivision plats and approve related permits in the extraterritorial jurisdiction and may regulate subdivisions under Sections 232.001-232.005, Subchapter B or C, Chapter 232, and other statutes applicable to counties;

(3) the municipality and the county may apportion the area within the extraterritorial jurisdiction of the municipality with the municipality regulating subdivision plats and approving related permits in the area assigned to the municipality and the county regulating subdivision plats and approving related permits in the area assigned to the county; or

(4) the municipality and the county may enter into an interlocal agreement that:

(A) establishes one office that is authorized to:

(i) accept plat applications for tracts of land located in the extraterritorial jurisdiction;

(ii) collect municipal and county plat application fees in a lump-sum amount; and

(iii) provide applicants one response indicating approval or denial of the plat application; and

(B) establishes a consolidated and consistent set of regulations related to plats and subdivisions of land as authorized by Chapter 212, Sections 232.001-232.005, Subchapters B and C, Chapter 232, and other statutes applicable to municipalities and counties that will be enforced in the extraterritorial jurisdiction[~~]. If a municipal regulation conflicts with a county regulation, the more stringent provisions prevail~~].

(e) [~~(d)~~] In an unincorporated area outside the extraterritorial jurisdiction of a municipality, the municipality may not regulate subdivisions or approve the filing of plats, except as provided by The Interlocal Cooperation Act, Chapter 791, Government Code [~~(Article 4413(32c), Vernon's Texas Civil Statutes)~~].

(f) This subsection applies until an agreement is reached under Subsection (d). For an area in a municipality's extraterritorial jurisdiction, as defined by Section 212.001, a plat may not be filed with the county clerk without the approval of both the municipality and the county. If a municipal regulation and a county regulation relating to plats and subdivisions of land conflict, the more stringent regulation prevails. However, if one governmental entity requires a plat to be filed for the subdivision of a particular tract of land in the extraterritorial jurisdiction of the municipality and the other governmental entity does not require the filing of a plat for that subdivision, the authority responsible for approving plats for the governmental entity that does not require the filing shall issue on request of the subdivider a written certification stating that a plat is not required to be filed for that subdivision of the land. The certification must be attached to a plat required to be filed under this subsection.

(g) Subsection (f) applies to a county and area to which Subsections (b)-(e) do not apply.

SECTION 2. This Act takes effect September 1, 2001.

**HB 1562 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1562**, A bill to be entitled An Act relating to the control of health insurance fraud; providing administrative penalties.

On motion of Representative Thompson, the house concurred in the senate amendments to **HB 1562**.

**Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 1562** as follows:

(1) Insert a new SECTION 5 of the bill (page 2, after line 69, senate committee printing), to read as follows:

SECTION 5. Section 402.084, Labor Code, is amended by amending Subsection (b) and by adding Subsection (d) to read as follows:

(b) Information on a claim may be released as provided by Subsection (a) to:

- (1) the employee or the employee's legal beneficiary;
- (2) the employee's or the legal beneficiary's representative;
- (3) the employer at the time of injury;
- (4) the insurance carrier;
- (5) the Texas Certified Self-Insurer Guaranty Association established under Subchapter G, Chapter 407, if that association has assumed the obligations of an impaired employer;

(6) the Texas Property and Casualty Insurance Guaranty Association, if that association has assumed the obligations of an impaired insurance company; [or]

(7) a third-party litigant in a lawsuit in which the cause of action arises from the incident that gave rise to the injury; or

(8) a subclaimant under Section 409.009 that is an insurance carrier that has adopted an antifraud plan under Article 3.97-3, Insurance Code, or the authorized representative of such a subclaimant.

(d) Information on a claim relating to a subclaimant under Subsection (b)(8) may include information, in an electronic data format, on all workers' compensation claims necessary to determine if a subclaim exists. The information on a claim remains subject to confidentiality requirements while in the possession of a subclaimant or representative. The commission by rule may establish a reasonable fee for all information requested under this subsection in an electronic data format by subclaimants or authorized representatives of subclaimants. The commission shall adopt rules under Section 401.024(d) to establish:

(1) reasonable security parameters for all transfers of information requested under this subsection in electronic data format; and

(2) requirements regarding the maintenance of electronic data in the possession of a subclaimant or the subclaimant's representative.

(2) Renumber the subsequent SECTIONS of the bill appropriately.

**Senate Amendment No. 2 (Senate Floor Amendment No. 2)**

Amend **HB 1562** (Senate committee printing) in SECTION 3 of the bill, in added Article 3.97-2(a), Insurance Code (page 2, line 17), by striking "as follows" and substituting "substantially similar to the following".

**Senate Amendment No. 3 (Senate Floor Amendment No. 3)**

Amend **HB 1562** (Senate committee printing) in SECTION 3 of the bill, in added Article 3.97-3(a), Insurance Code (page 2, line 23), between "insurer" and "shall", by inserting "who collects direct written premium".

**HB 1572 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1572**, A bill to be entitled An Act relating to the rights of victims of crime, participation by victims and witnesses in certain criminal proceedings, and the payment of restitution to victims.

On motion of Representative Haggerty, the house concurred in the senate amendments to **HB 1572**.

**Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 1572** as follows:

(1) Strike SECTION 8 and SECTION 9 of the bill (Engrossed version page 8, line 23, through page 12, line 5) and renumber the subsequent sections appropriately.

(2) Add a new SECTION 18 to the bill (Engrossed version page 18, line 6) to read as follows and renumber the subsequent section appropriately:

"SECTION 18. (a) The office of the attorney general is required to complete its pilot project regarding a computer network victim notification system by January 1, 2002, or as soon as practicable. In completing the project, the office of the attorney general shall consult with the office of court administration and the Texas Department of Criminal Justice. The office of the attorney general shall continue to provide funding for continuation of the operation of the project in the counties comprising the pilot project until the computer network victim notification system is operational in those counties.

(b) The office of the attorney general may contract with the office of court administration or the Texas Department of Criminal Justice, or both, to implement a computer network victim notification system. Implementation of the state-wide system shall begin no later than by June 1, 2002, according to a written schedule developed by the implementing agency or agencies."

**HB 1645 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1645**, A bill to be entitled An Act relating to an exemption for certain transfer students from the requirements of the Texas Academic Skills Program.

On motion of Representative Delisi, the house concurred in the senate amendments to **HB 1645** by (Record 560): 135 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Pickett; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smithee; Solis; Solomons; Swinford; Telford; Thompson; Tillery; Truitt; Turner, B.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; Turner, S.; West.

Absent, Excused, Committee Meeting — Dunnam; Hardcastle; Olivo; Sadler; Smith.

Absent — Hartnett; Moreno, P.; Talton.

### Senate Committee Substitute

**CSHB 1645**, A bill to be entitled An Act relating to the use of certain transferred freshmen-level credit courses to satisfy the requirements of the Texas Academic Skills Program.

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

SECTION 1. Section 51.306, Education Code, is amended by adding Subsection (x) to read as follows:

(x) This subsection applies to an undergraduate student who transfers to an institution of higher education from an accredited private or independent institution of higher education or an accredited out-of-state institution of higher education. A transfer student is exempt from the requirements of this section if in each of the three skill areas described by Subsection (b) the student has earned a grade of "B" or better in a transferred freshman-level credit course included in the list of courses established by the board under Subsection (g). A transfer student who has not earned a grade of "B" or better in a course in each skill area as described by this subsection is subject to the requirements of this section for any skill area in which the requisite grade was not earned. A transferred course may not be considered for purposes of this subsection unless the transfer student submits to the

institution of higher education a transcript reflecting the grade earned in the course.

SECTION 2. The change in law made by this Act applies only to a transfer student who enrolls at a public institution of higher education for a semester or summer session that begins on or after the effective date of this Act.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

### **HB 1659 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1659**, A bill to be entitled An Act relating to the duty of a county to notify the Texas Department of Criminal Justice regarding certain proceedings in cases of defendants or inmates returned to the county on a bench warrant.

On motion of Representative Ritter, the house concurred in the senate amendments to **HB 1659** by (Record 561): 132 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Pickett; Pitts; Puente; Raymond; Reyna, A.; Reyna, E.; Ritter; Seaman; Shields; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; Turner, S.; West.

Absent, Excused, Committee Meeting — Dunnam; Hardcastle; Olivo; Sadler; Smith.

Absent — Hartnett; Martinez Fischer; Moreno, P.; Ramsay; Salinas; Zbranek.

### **Senate Committee Substitute**

**CSHB 1659**, A bill to be entitled An Act relating to the duty of a county to notify the Texas Department of Criminal Justice regarding certain

proceedings in cases of defendants or inmates returned to the county on a bench warrant.

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

SECTION 1. Chapter 24, Code of Criminal Procedure, is amended by adding Article 24.131 to read as follows:

Art. 24.131. NOTIFICATION TO DEPARTMENT OF CRIMINAL JUSTICE. If after the Texas Department of Criminal Justice transfers a defendant or inmate to a county under Article 24.13 and before that person is returned to the department the person is released on bail or the charges on which the person was convicted and for which the person was transferred to the department are dismissed, the county shall immediately notify an officer designated by the department of the release on bail or the dismissal.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

### **HB 1685 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1685**, A bill to be entitled An Act relating to a partnership or affiliation between certain entities and a general academic teaching institution or a medical and dental unit.

On motion of Representative Uher, the house concurred in the senate amendments to **HB 1685** by (Record 562): 135 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Pickett; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Salinas; Seaman; Shields; Smithee; Solis; Solomons; Swinford; Talton; Thompson; Tillery; Truitt; Turner, B.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; Turner, S.; West.



Absent, Excused, Committee Meeting — Dunnam; Hardcastle; Olivo; Sadler; Smith.

Absent — Bonnen; Moreno, P.; Telford.

### **Senate Committee Substitute**

**CSHB 1685**, A bill to be entitled An Act relating to a partnership or affiliation between certain entities and a general academic teaching institution or a medical and dental unit.

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

SECTION 1. Section 61.055, Education Code, is amended to read as follows:

Sec. 61.055. INITIATION OF NEW DEPARTMENTS, SCHOOLS, AND PROGRAMS; PARTNERSHIPS OR AFFILIATIONS. (a) Except as otherwise provided by law, a new department, school, or degree or certificate program approved by the board or its predecessor, the Texas Commission on Higher Education, may not be initiated by any institution of higher education until the board has made a written finding that the department, school, or degree or certificate program is adequately financed by legislative appropriation, by funds allocated by the board, or by funds from other sources.

(b) A general academic teaching institution or medical and dental unit may establish a partnership or affiliation with another entity to offer or conduct courses for academic credit or to offer or operate a degree program if:

(1) the governing board or other appropriate official of the institution or unit determines that the partnership or affiliation is:

(A) consistent with the role and mission established for the institution or unit;

(B) in accordance with the degree and certificate programs authorized to be offered by the institution or unit; and

(C) consistent with the role and mission of the university system, if any, to which the institution or unit belongs;

(2) the partnership or affiliation is approved by the coordinating board;  
or

(3) the partnership or affiliation is established to secure or provide clinical or other similar practical educational experience in connection with a course or degree program authorized to be offered by the institution or unit.

SECTION 2. This Act does not affect a partnership or affiliation established before the effective date of this Act.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

### **HB 1691 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1691**, A bill to be entitled An Act relating to the Texas Council on Purchasing from People with Disabilities.

On motion of Representative Maxey, the house concurred in the senate amendments to **HB 1691**.

### Senate Committee Substitute

**CSHB 1691**, A bill to be entitled An Act relating to the Texas Council on Purchasing from People with Disabilities.

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

SECTION 1. Sections 122.003(a) and (b), Human Resources Code, are amended to read as follows:

(a) The Texas Council on Purchasing from People with Disabilities is composed of nine ~~[the following]~~ members selected from the following categories who are appointed by the governor with the advice and consent of the senate:

(1) ~~[three]~~ private citizens conversant with the employment needs of persons with disabilities, including blindness, and with current experience in the pricing and marketing of goods and services;

(2) ~~[three]~~ representatives of community rehabilitation programs that represent different disability groups, including persons with blindness, and that provide or seek to provide products produced or services performed by persons with disabilities; ~~[and]~~

(3) ~~[three]~~ representatives of state agencies or political subdivisions that purchase a significant amount of products produced or services performed by persons with disabilities; and

(4) persons with disabilities.

(b) The governor shall select at least one member from each category prescribed by Subsection (a). To the extent possible, the governor shall attempt to ensure each category is proportionately represented on the council. Members of the council serve staggered terms of six years with the terms of three members expiring on January 31 of each odd-numbered year. Members may not receive compensation for their service on the council, but they are entitled to reimbursement for actual and necessary expenses incurred in performing their duties as members.

SECTION 2. Chapter 122, Human Resources Code, is amended by adding Section 122.0055 to read as follows:

Sec. 122.0055. COUNCIL STAFF. (a) The council may employ staff as necessary to carry out the council's duties.

(b) The staff shall provide:

(1) management oversight for the administration of this chapter; and

(2) policy guidance and administrative support to the council.

SECTION 3. Chapter 122, Human Resources Code, is amended by adding Section 122.0057 to read as follows:

Sec. 122.0057. ADVISORY COMMITTEE. (a) The council may establish an advisory committee if the council considers the committee necessary. The membership of the committee is determined by the council.

(b) The council shall specify the purpose and duties of the advisory committee, which must include:

(1) reviewing the effectiveness of the program administered under this chapter; and

(2) recommending procedures to create higher skilled and higher paying employment opportunities.

(c) Members of an advisory committee serve at the will of the council. The council may dissolve an advisory committee when appropriate.

(d) The council shall make reasonable attempts to have balanced representation on all advisory committees, including attempting to seek representation from:

(1) the Lighthouse for the Blind community rehabilitation programs;

(2) the Goodwill community rehabilitation programs;

(3) the Texas Department of Mental Health and Mental Retardation community rehabilitation program;

(4) other community rehabilitation programs;

(5) representatives from central nonprofit agencies;

(6) representatives of disability advocacy groups;

(7) government purchasing agents with knowledge of this chapter;

(8) private industry representatives with knowledge of this chapter;

and

(9) private citizens who have a disability and have knowledge of the sale of products and services.

SECTION 4. Chapter 122, Human Resources Code, is amended by adding Section 122.0095 to read as follows:

Sec. 122.0095. AGENCY COMPLIANCE; NONPROGRAM PURCHASING REPORT. (a) Each state agency that purchases products or services through a program under this chapter shall:

(1) designate an agency employee to ensure that the agency complies with this chapter; and

(2) report to the commission and the council the purchase of products or services available from a central nonprofit agency or community rehabilitation program under this chapter, but purchased from another business that is not a central nonprofit agency or community rehabilitation program under this chapter.

(b) A report under this section may be based on a sampling of purchases by the agency in an audit conducted after the purchases.

(c) Information in the report under this section shall be included with the exception reports provided under Section 122.016.

(d) The commission shall post the reports required by Subsection (a)(2) on the commission's website.

SECTION 5. Section 122.012, Human Resources Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) The commission shall provide legal~~[-clerical, administrative,]~~ and other necessary support to the council in accordance with legislative appropriation. The commission shall assign an upper-level management employee to ensure that the commission meets the requirements of this chapter.

(d) The commission shall include the programs administered under this chapter in the commission's procurement policy manuals.

SECTION 6. Section 122.013, Human Resources Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) The council shall ~~may~~ adopt rules for the implementation, extension, administration, or improvement of the program authorized by this chapter in accordance with Chapter 2001, Government Code.

(c) The council shall adopt rules to:

(1) address possible conflicts of interest for central nonprofit agencies and community rehabilitation programs;

(2) establish a process for the certification of community rehabilitation programs;

(3) establish a minimum percentage of disabled labor an organization must employ to be considered a community rehabilitation program under this chapter; and

(4) define the terms "value-added" and "direct labor" for products manufactured and services provided that are offered for sale under this chapter.

SECTION 7. Section 122.019, Human Resources Code, is amended by amending Subsections (a), (d), (e), and (f) and adding Subsections (g), (h), and (i) to read as follows:

(a) The council may select and contract with one or more central nonprofit agencies through a request for proposals for a period not to exceed five years. Once the selection process is completed, the council shall contract with a central nonprofit agency to:

(1) recruit and assist community rehabilitation programs in developing and submitting applications for the selection of suitable products and services;

(2) facilitate the distribution of orders among community rehabilitation programs;

(3) manage and coordinate the day-to-day operation of the program, including the general administration of contracts with community rehabilitation programs; ~~and~~

(4) promote increased supported employment opportunities for persons with disabilities; and

(5) recruit and assist qualified nonprofit organizations that are managed by members of racial minorities, women, or persons with disabilities and that are in the process of qualifying as community rehabilitation programs.

(d) At least once during each five-year ~~two-year~~ period, the council may ~~shall~~ review and renegotiate the contract with a central nonprofit agency. Not later than the 60th day before the date the council adopts or renews a contract, the council shall publish notice of the proposed contract in the Texas Register.

(e) The maximum management fee rate charged by a central nonprofit agency for its services must be computed as a percentage of the selling price of the product or the contract price of a service, must be included in the selling price or contract price, and must be paid at the time of sale. The management fee rate must be approved by the council and must be reviewed on an annual basis.

(f) A percentage of the management fee described by Subsection (e) shall be paid to the council and is subject to Section 122.023. The percentage shall be set by the council in the amount necessary to reimburse the general

revenue fund for direct and reasonable costs incurred by the commission, the council, and the council staff in administering the council's [its] duties under this chapter.

(g) The council may terminate a contract with a central nonprofit agency if:

(1) the council finds substantial evidence of the central nonprofit agency's noncompliance with contractual obligations; and

(2) the council has provided at least 30 days' notice to the central nonprofit agency of the termination of the contract.

(h) The council may request an audit by the state auditor of:

(1) the management fee set by a central nonprofit agency; or

(2) the financial condition of a central nonprofit agency.

(i) A person may not operate a community rehabilitation program and at the same time contract with the council as a central nonprofit agency.

SECTION 8. Chapter 122, Human Resources Code, is amended by adding Section 122.0205 to read as follows:

Sec. 122.0205. ALTERNATIVE DISPUTE RESOLUTION. (a) A dispute between the council and a central nonprofit agency or a community rehabilitation program shall first be submitted to alternative dispute resolution.

(b) This section does not constitute authorization to sue and does not modify the remedies available under other law.

(c) This section does not limit the council's ability to request opinions from the attorney general.

SECTION 9. Chapter 122, Human Resources Code, is amended by adding Section 122.0215 to read as follows:

Sec. 122.0215. ACCESS TO INFORMATION AND RECORDS. (a) The council and the council's staff may access financial or other information and records from a central nonprofit agency or a community rehabilitation program if the council determines the information and records are necessary for the effective administration of this chapter and rules adopted under this chapter.

(b) Information and records must be obtained under Subsection (a) in recognition of the privacy interest of persons employed by central nonprofit agencies or community rehabilitation programs. The information and records may not be released or made public on subpoena or otherwise, except that release may be made:

(1) for statistical purposes, but only if a person is not identified;

(2) with the consent of each person identified in the information released; or

(3) regarding a compensation package of any central nonprofit agency employee or subcontractor if determined by the council to be relevant to the administration of this chapter.

(c) The council shall adopt rules establishing procedures to ensure that the information and records maintained by the council under this chapter are kept confidential and protected from release to unauthorized persons.

SECTION 10. Section 122.022(b), Human Resources Code, is amended to read as follows:

(b) The report submitted under this section must [staff] include:

(1) the number of persons with disabilities, according to their type

of disability, who are employed in community rehabilitation programs participating in the programs established by this chapter or who are employed by businesses or workshops that receive supportive employment from community rehabilitation programs;

(2) the amount of annual wages paid to a person participating in the program;

(3) a summary of the sale of products offered by a community rehabilitation program;

(4) a list of products and services offered by a community rehabilitation program; ~~and~~

(5) the geographic distribution of the community rehabilitation programs;

(6) the number of nondisabled workers who are employed in community rehabilitation programs under this chapter; and

(7) the average and range of weekly earnings for disabled and nondisabled workers who are employed in community rehabilitation programs under this chapter.

SECTION 11. This Act takes effect September 1, 2001.

SECTION 12. The changes in law made by this Act to Section 122.003, Human Resources Code, apply only to a member who is appointed to serve on the Texas Council on Purchasing from People with Disabilities on or after the effective date of this Act, including a member who is appointed to fill a vacancy in an unexpired term on or after the effective date of this Act. A member of the Texas Council on Purchasing from People with Disabilities who is serving on the council immediately before the effective date of this Act is governed for the remainder of the member's current term by Section 122.003, Human Resources Code, as that statute existed immediately before the effective date of this Act, and the former law is continued in effect for that purpose.

### **HB 1692 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1692**, A bill to be entitled An Act relating to customer protections applicable to certain electric utilities.

On motion of Representative Chisum, the house concurred in the senate amendments to **HB 1692** by (Record 563): 132 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.;

Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Pickett; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Seaman; Shields; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; Turner, S.; West.

Absent, Excused, Committee Meeting — Dunnam; Hardcastle; Olivo; Sadler; Smith.

Absent — Callegari; Elkins; Hochberg; Moreno, P.; Salinas; Wise.

### Senate Committee Substitute

**CSHB 1692**, A bill to be entitled An Act relating to customer protections applicable to certain electric utilities.

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

SECTION 1. Sections 39.401, 39.402, and 39.407, Utilities Code, are amended to read as follows:

Sec. 39.401. **APPLICABILITY**. This subchapter shall apply to investor-owned electric utilities operating solely outside of ERCOT having fewer than six synchronous interconnections with voltage levels above 69 kilovolts systemwide on the effective date of this subchapter. The legislature finds [This subchapter recognizes] that circumstances exist that require that areas served by such utilities be treated as competitive development areas in which it is not in the public interest to transition to full retail customer choice at this time [may develop on a more structured schedule than is anticipated for the rest of the state. If there are any conflicts between this subchapter and any other provisions of this chapter, the provisions of this subchapter shall control, but shall not be deemed to limit or in any way restrict any provision of this title that governs customer protection or quality or reliability of service].

Sec. 39.402. **REGULATION OF UTILITY AND TRANSITION TO COMPETITION [PLAN]**. (a) Until the later of January 1, 2007, or the date on which an electric utility subject to this subchapter is authorized by the commission to implement customer choice, the rates of the utility shall be regulated under traditional cost of service regulation and the utility is subject to all applicable regulatory authority prescribed by this subtitle and Subtitle A, including Chapters 14, 32, 33, 36, and 37. Until the date on which an electric utility subject to this subchapter implements customer choice, the provisions of this chapter, other than this subchapter, Section 39.904, and the provisions relating to the duty to obtain a permit from the Texas Natural Resource Conservation Commission for an electric generating facility and to reduce emissions from an electric generating facility, shall not apply to that utility. That portion of any commission order entered before September 1, 2001, to comply with this subchapter shall be null and void.

(b) Until the date on which an electric utility subject to this subchapter implements customer choice, Section 33.008 does not apply and the utility shall pay franchise fees to a municipality as required by the utility's franchise agreement with the municipality. After the date on which an electric utility subject to this subchapter implements customer choice, Section 33.008 applies. However, for purposes of computing the franchise fees as provided by Section 33.008(b), the calendar year immediately preceding the implementation of customer choice shall be substituted for the year 1998.

(c) On or after January 1, 2007, an electric utility [~~All electric utilities~~] subject to this subchapter may choose to participate in customer choice. An electric utility that chooses to participate in customer choice shall file a transition to competition plan with the commission [~~not later than December 1, 2000~~]. This transition to competition plan shall identify how utilities subject to this subchapter intend to mitigate market power and [~~shall~~] achieve full customer choice, including specific alternatives for constructing additional transmission facilities, auctioning rights to generation capacity, divesting generation capacity, or any other measure [~~necessary for the electric utility to meet the requirements of Section 39.152(a) and~~] that is consistent with the public interest. The utility shall also include in the transition to competition plan a provision to establish a price to beat for residential customers and commercial customers having a peak load of 1,000 kilowatts or less. The commission may prescribe additional information or provisions that must be included in the plan. The commission shall approve, modify, or reject a plan within 180 days after the date of a filing under this section; provided, however, that if a hearing is requested by any party to the proceeding, the 180-day deadline will be extended one day for each day of hearings. The transition to competition plan may be updated or amended annually [~~as circumstances change~~], subject to commission approval until the applicable power region is certified as a qualifying power region under Section 39.152.

(d) On implementation of customer choice, an electric utility subject to this subchapter is subject to the provisions of this subtitle and Subtitle A to the same extent as other electric utilities, including the provisions of Chapter 37 concerning certificates of convenience and necessity.

Sec. 39.407. CUSTOMER CHOICE AND RELEVANT MARKET AND RELATED MATTERS. (a) If an electric utility chooses on or after January 1, 2007, to participate in customer choice, the commission may not authorize customer choice until the applicable power region has been certified as a qualifying power region under Section 39.152(a). Except as otherwise provided by this subsection, the [~~The~~] commission shall certify that the requirements of Section 39.152(a)(3) are met for electric utilities subject to this subchapter only upon a finding that the total capacity owned and controlled by each such electric utility and its affiliates does not exceed 20 percent of the total installed generation capacity within the constrained geographic region served by each such electric utility plus the total available transmission capacity capable of delivering firm power and energy to that constrained geographic region. Not later than May 1, 2002, each electric utility subject to this subchapter shall submit to the electric utility restructuring legislative oversight committee an analysis of the needed



transmission facilities necessary to make the electric utility's service area transmission capability comparable to areas within the ERCOT power region. On or after September 1, 2003, each electric utility subject to this subchapter shall file the utility's plans to develop the utility's transmission interconnections with the utility's power region or other adjacent power regions. The commission shall review the plan and not later than the 180th day after the date the plan is filed, determine the additional transmission facilities necessary to provide access to power and energy that is comparable to the access provided in areas within the ERCOT power region; provided, however, that if a hearing is requested by any party to the proceeding, the 180-day deadline will be extended one day for each day of hearings. The commission shall, as a part of the commission's approval of the plan, approve a rate rider mechanism for the recovery of the incremental costs of those facilities after the facilities are completed and in-service. A finding of need under this subsection shall meet the requirements of Sections 37.056(c)(1), (2), and (4)(E). The commission may certify that the requirements of Section 39.152(a)(3) are met for electric utilities subject to this subchapter if the commission finds that:

(1) each such utility has sufficient transmission facilities to provide customers access to power and energy from capacity controlled by suppliers not affiliated with the incumbent utility that is comparable to the access to power and energy from capacity controlled by suppliers not affiliated with the incumbent utilities in areas of the ERCOT power region; and

(2) the total capacity owned and controlled by each such electric utility and its affiliates does not exceed 20 percent of the total installed generation capacity within the power region.

(b) In the area of a power region served by an electric utility subject to this subchapter, the electric utility may not choose to participate in customer choice unless [if customer choice is introduced before the requirements of Section 39.152(a) are met, an affiliated retail electric provider of an electric utility subject to this subchapter may not compete for retail customers in any area of the power region that is within this state and outside of the affiliated transmission and distribution utility's certificated service area unless] the affiliated power generation company makes a commitment to maintain and does maintain rates that are based on cost of service for any electric cooperative or municipally owned utility that was a wholesale customer on the date the utility chooses to participate in customer choice [January 1, 1999,] and was purchasing power at rates that were based on cost of service. This subsection requires a power generation company to sell power at rates that are based on cost of service, notwithstanding the expiration of a contract for that service, until the requirements of Section 39.152(a) are met.

(c) If the requirements of Section 39.152(a) have not been met for an electric utility subject to this subchapter when the electric utility chooses to participate in customer choice, then any power generation company in the power region affiliated with an electric utility subject to this subchapter shall maintain adequate supply and facilities to provide electric service to persons who were [or would have been] retail customers of the electric utility on the date the utility chooses to participate in customer choice [affiliated retail electric provider on December 31, 2001]. The obligation provided by this subsection remains in effect until the commission determines that the requirements of Section 39.152(a) have been met for the region.

SECTION 2. Subchapter I, Chapter 39, Utilities Code, is amended by adding Sections 39.409 and 39.410 to read as follows:

Sec. 39.409. RECOUPMENT OF TRANSITION TO COMPETITION COSTS. An electric utility subject to this subchapter is entitled to recover, as provided by this section, all reasonable and necessary expenditures made or incurred before September 1, 2001, to comply with the provisions of this chapter. Not later than December 1, 2001, each electric utility subject to this subchapter may file with the commission an application for recovery detailing the amounts spent or incurred. After notice and hearing, the commission shall review the amounts and, if found to be reasonable and necessary, approve a transition to competition retail rate rider mechanism for the recovery of the approved transition to competition costs. A rate rider implemented to recover approved transition to competition costs shall expire not later than December 31, 2006.

Sec. 39.410. CONTRACTUAL OBLIGATIONS. This subchapter may not:

(1) interfere with or abrogate the rights or obligations of any party, including a retail or wholesale customer, to a contract with an investor-owned electric utility, river authority, municipally owned utility, or electric cooperative;

(2) interfere with or abrogate the rights or obligations of a party under a contract or agreement concerning certificated utility service areas; or

(3) result in a change in wholesale power costs to wholesale customers in Texas purchasing electricity under wholesale power contracts the pricing provisions of which are based on formulary rates, fuel adjustments, or average system costs.

SECTION 3. Sections 39.403, 39.404, 39.405, 39.406, and 39.408, Utilities Code, are repealed.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

### **HB 1697 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1697**, A bill to be entitled An Act relating to the erection and maintenance of outdoor advertising by certain nonprofit organizations or schools.

On motion of Representative Ellis, the house concurred in the senate amendments to **HB 1697** by (Record 564): 131 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen; Averitt; Bailey; Berman; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter;

Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Nixon; Noriega; Oliveira; Pickett; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Seaman; Shields; Smithee; Solis; Solomons; Swinford; Talton; Thompson; Tillery; Truitt; Turner, B.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; Turner, S.; West.

Absent, Excused, Committee Meeting -- Dunnam; Hardcastle; Olivo; Sadler; Smith.

Absent — Alexander; Bonnen; Moreno, P.; Najera; Salinas; Telford; Wise.

**Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 1697**, in added Section 391.037, Transportation Code (Committee Printing page 1, between lines 15 and 16), by inserting the following new Subdivision (1) and renumbering subsequent subdivisions accordingly:

(1) the sign is erected or maintained in a county with a population of 65,000 or less;

**MESSAGE FROM THE SENATE**

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 4).

**HB 1712 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1712**, A bill to be entitled An Act relating to online public access to certain information regarding attorneys.

On motion of Representative Maxey, the house concurred in the senate amendments to **HB 1712**.

**Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 1712** (Senate committee printing) as follows:

(1) In SECTION 2 of the bill (page 2, lines 30-33), strike Subsection (c).

**HB 1716 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1716**, A bill to be entitled An Act relating to the establishment and operation of the San Antonio Life Sciences Institute in The University of Texas System.

On motion of Representative Uresti, the house concurred in the senate amendments to **HB 1716**.

### Senate Committee Substitute

**CSHB 1716**, A bill to be entitled An Act relating to the establishment and operation of the San Antonio Life Sciences Institute in The University of Texas System.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
SECTION 1. Chapter 75, Education Code, is amended by adding Subchapter C to read as follows:

#### SUBCHAPTER C. SAN ANTONIO LIFE SCIENCES INSTITUTE

##### Sec. 75.201. DEFINITIONS. In this subchapter:

(1) "Board" means the board of regents of The University of Texas System.

(2) "Health science center" means The University of Texas Health Science Center at San Antonio.

(3) "Institute" means the San Antonio Life Sciences Institute.

(4) "University" means The University of Texas at San Antonio.

Sec. 75.202. ESTABLISHMENT. The board may establish and maintain the San Antonio Life Sciences Institute as a joint partnership of the health science center and the university.

Sec. 75.203. ROLE AND SCOPE. (a) The institute shall specialize in research and teaching in the life sciences.

(b) The institute shall develop joint degree programs and joint research programs for the health science center and the university.

(c) The institute may accept gifts, grants, and donations from any source for the purposes of the program. The institute may develop or use land, buildings, equipment, facilities, and other improvements in connection with the program. To the extent that any funds are appropriated in the General Appropriations Act by the 77th Legislature, the institute may accept any amount authorized.

(d) The institute shall seek private, local, and federal funding to support the operation and management of the institute.

Sec. 75.204. OPERATION AND MANAGEMENT. (a) The administration of the institute is under the direction of the chancellor of The University of Texas System and the board through the presidents of the health science center and the university.

(b) The costs of the operation and management of the institute may be paid from money appropriated for that purpose and from other money from any public or private source. The institute shall retain all indirect costs received or recovered under a grant or contract.

(c) The board may make joint appointments of faculty or other personnel to the institute and to either or both the health science center and the university. The salary of a person receiving a joint appointment shall be apportioned on the basis of services rendered.

(d) The institute shall be located in facilities determined appropriate by the board.

SECTION 2. This Act takes effect September 1, 2001.

**HB 1757 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1757**, A bill to be entitled An Act relating to payment of unemployment compensation tax contributions by certain employers engaged in agriculture.

On motion of Representative Gutierrez, the house concurred in the senate amendments to **HB 1757**.

**Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 1757** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 204.007, Labor Code, is amended to read as follows:

Sec. 204.007. SPECIAL RATE: CERTAIN EMPLOYERS ENGAGED IN AGRICULTURE [~~RATE—COTTON GINNING EMPLOYER~~]. (a) This section applies to an [~~An~~] employer identified by the commission as classified in the manual as:

- (1) Number 115114, crop preparation services for market; or
- (2) Number 115111 [~~0724~~], cotton ginning.

(b) An employer subject to this section shall [~~may elect to~~] pay a contribution at the lowest of the following rates:

- (1) [~~a total fixed rate of~~] five and four-tenths percent;
- (2) [~~instead of paying a contribution computed on:~~  
[~~(+)~~] the general tax rate applicable to that employer, with the deficit tax rate and replenishment tax rate; or
- (3) [~~(2)~~] any other tax rate applicable to that employer under this subtitle.

[~~(b) An employer must notify the commission of an election under this section in writing not later than December 31 preceding the year for which the election is made.~~]

SECTION 2. This Act takes effect September 1, 2001.

**HB 1772 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1772**, A bill to be entitled An Act relating to the approval and financing of sports and community venue projects.

On motion of Representative Brimer, the house concurred in the senate amendments to **HB 1772**.

**Senate Committee Substitute**

**CSHB 1772**, A bill to be entitled An Act relating to the approval and financing of sports and community venue projects.

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

SECTION 1. Section 334.001(4), Local Government Code, is amended to read as follows:

(4) "Venue" means:

(A) an arena, coliseum, stadium, or other type of area or facility:

(i) that is used or is planned for use for one or more professional or amateur sports events, community events, or other sports events, including rodeos, livestock shows, agricultural expositions, promotional events, and other civic or charitable events; and

(ii) for which a fee for admission to the events is charged or is planned to be charged;

(B) a convention center facility or related improvement such as a convention center, civic center, civic center building, civic center hotel, auditorium, theater, opera house, music hall, exhibition hall, rehearsal hall, park, zoological park, museum, aquarium, or plaza located in the vicinity of a convention center or facility owned by a municipality or a county;

(C) a tourist development area along an inland waterway;

(D) a municipal parks and recreation system, or improvements or additions to a parks and recreation system, or an area or facility that is part of a municipal parks and recreation system; and

(E) a project authorized by Section 4A or 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), as that Act existed on September 1, 1997 [~~any other economic development project authorized by other law~~].

SECTION 2. Subchapter B, Chapter 334, Local Government Code, is amended by adding Section 334.025 to read as follows:

Sec. 334.025. FALSE AND MISLEADING CAMPAIGN MATERIAL. (a) In this section, "campaign material" means a communication supporting or opposing the authorization of a venue project that:

(1) in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television; or

(2) appears in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication.

(b) A person may not print, broadcast, or publish, or cause to be printed, broadcast, or published, campaign material that contains false and misleading information.

(c) An individual may file a complaint with the Texas Ethics Commission in accordance with Subchapter E, Chapter 571, Government Code, alleging a violation of Subsection (b). The commission may impose a penalty in accordance with Chapter 571, Government Code, if the commission determines that the campaign materials contain false and misleading information.

(d) Notwithstanding any other law, the Texas Ethics Commission has jurisdiction to consider and investigate a complaint filed under this section and to impose a penalty.

SECTION 3. Subchapter E, Chapter 334, Local Government Code, is amended by adding Section 334.1135 to read as follows:

Sec. 334.1135. REIMBURSEMENT FOR TAX COLLECTION EXPENSES. (a) Subject to Subsection (b), a municipality or county shall allow a person

who is required to collect and remit the tax imposed under this subchapter one percent of the amount collected and required to be remitted as reimbursement to the person for the costs of collecting the tax.

(b) A person required to collect and remit the tax imposed under this subchapter is not entitled to reimbursement under Subsection (a) unless the municipality or county receives the amount required to be collected not later than the 15th day after the end of the collection period. If the 15th day is on a weekend or holiday, the municipality or county must receive the amount required to be collected not later than the first working day after the 15th day. If the person remits the amount required to be collected by mail, the date postmarked by the United States Postal Service is considered to be the date of receipt by the municipality or county.

SECTION 4. Section 334.2515, Local Government Code, is amended to read as follows:

Sec. 334.2515. APPLICATION. Except as provided by Section 334.2516, this [This] subchapter does not apply to the financing of a venue project that is:

(1) an area or facility that is part of a municipal parks and recreation system as described by Section 334.001(4)(D); or

(2) a project described by Section 334(4)(E), except for projects described in Section 334.001(4)(a).

SECTION 5. Subchapter H, Chapter 334, Local Government Code, is amended by adding Section 334.2516 to read as follows:

Sec. 334.2516. USE OF REVENUE BY CERTAIN MUNICIPALITIES FOR CERTAIN PURPOSES. (a) This section applies only to a municipality that:

(1) is located in three counties;

(2) has a population of less than 120,000; and

(3) acquires by purchase or lease with a term of not less than 20 years an interest in real property that by the terms of the acquisition is required to be maintained as park property.

(b) A municipality may use revenue under this subchapter to acquire, construct, improve, and equip a venue project that is a convention center facility or related infrastructure to be constructed on real property described by Subsection (a)(3). In addition, the municipality may pledge the revenue to the payment of bonds or other obligations the municipality issues to finance the convention center facility infrastructure.

SECTION 6. Section 334.256, Local Government Code, is amended to read as follows:

Sec. 334.256. NOTICE OF TAX. (a) Each bill or other receipt for a hotel charge subject to the tax imposed under this subchapter must contain a statement in a conspicuous location stating: "\_\_\_\_\_ (insert name of taxing municipality or county) requires that an additional tax of \_\_\_\_\_ percent (insert rate of tax) be imposed on each hotel charge for the purpose of financing a venue project. In addition to the tax imposed to finance a venue project, the State of Texas requires that a tax of six percent be imposed on each hotel charge."

(b) If a hotel charge is subject to any additional hotel occupancy taxes,

the statement required by Subsection (a) must be modified to state each additional entity that imposes a hotel occupancy tax and the rate of that tax.

SECTION 7. Subchapter D, Chapter 335, Local Government Code, is amended by adding Section 335.055 to read as follows:

Sec. 335.055. FALSE AND MISLEADING CAMPAIGN MATERIAL. (a) In this section, "campaign material" means a communication supporting or opposing the authorization of a venue project that:

(1) in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television; or

(2) appears in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication.

(b) A person may not print, broadcast, or publish, or cause to be printed, broadcast, or published, campaign material that contains false and misleading information.

(c) An individual may file a complaint with the Texas Ethics Commission in accordance with Subchapter E, Chapter 571, Government Code, alleging a violation of Subsection (b). The commission may impose a penalty in accordance with Chapter 571, Government Code, if the commission determines that the campaign materials contain false and misleading information.

(d) Notwithstanding any other law, the Texas Ethics Commission has jurisdiction to consider and investigate a complaint filed under this section and to impose a penalty.

SECTION 8. Section 4B (a-3)(1), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

(1) A city that creates or has created a corporation governed by this section may submit to the voters of the city, at a separate election to be held on a uniform election date or at an election held under another provision of this Act, including the election at which the proposition to initially authorize the collection of a sales and use tax for the benefit of the corporation is submitted, a ballot proposition that authorizes the corporation to use the sales and use tax, including any amount previously authorized and collected, for a specific sports venue project, including related infrastructure, or for a specific category of sports venue projects, including related infrastructure. Prior approval of a specific sports venue project at an election or completion of a specific sports venue project approved at an election does not prohibit a city from seeking voter approval of an additional project or category of projects under this subsection to be funded from the same sales and use tax that is used to fund the previously approved sports venue project. This subsection does not affect the authority of a municipality to call an election under this section to levy a sales and use tax for any purpose authorized by this section after the sales and use tax described by this subsection is no longer collected as provided by Subsection (i) of this section.

SECTION 9. Section 4B(h), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), is amended to read as follows:

(h) Bonds or other obligations having a maturity not longer than 30 years and issued to pay the costs of projects of the types added to the definition of that term by Subsection (a) of this section may be made payable from any source of funds available to the corporation, including the proceeds



of a sales and use tax imposed under this section. [~~The principal amount of bonds and other obligations that by their terms are payable in whole or in part from the sales and use tax, together with the amount of the costs of the projects, other than interest on bonds and other obligations, for which payment is made in cash directly from the proceeds of the tax, may not, in the aggregate, exceed \$135 million.~~]

SECTION 10. (a) This Act takes effect September 1, 2001.

(b) This Act does not apply to a sports and community venue project approved before the effective date of this Act. A sports and community venue project approved before the effective date of this Act is governed by the law in effect on the date the venue project was approved, and that law is continued in effect for that purpose.

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

(d) This Act does not apply to the use of tax revenue pledged or dedicated before the effective date of this Act for the acquisition of sites for and the construction, improvement, enlarging, equipping, repairing, operation, and maintenance of sports and community venue projects. Tax revenue pledged for these purposes before the effective date of this Act is governed by the law in effect on the date the revenue was pledged, and that law is continued in effect for that purpose.

(e) This Act does not apply to the use of tax revenue for a sports and community venue project that was under construction on the effective date of this Act, including the pledging of such revenue to secure bonds, additional bonds, and refunding bonds. Tax revenue used for a sports and community venue project that was under construction on 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.

**HCR 309 - ADOPTED**  
**(by Brimer)**

The following privileged resolution was laid before the house:

**HCR 309**

WHEREAS, **HB 1772** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

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

RESOLVED by the 77th Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to correct **HB 1772** as follows:

(1) Strike Sections 334.2515(1) and (2), Local Government Code, as amended by the Senate Committee Substitute, and substitute the following:

(1) an area or facility that is part of a municipal parks and recreation system as as described by Section 334.001(4)(D); or

(2) a project described by Section 334.001(4)(E), except for projects described in Section 334.001(4)(A).

(2) At the end of the last sentence of Section 4B(a-3)(1), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), as added by the Senate Committee Substitute, strike the underlined period and substitute a period that is not underlined.

(3) At the end of the language that is stricken in Section 4B(h), Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), as amended by the Senate Committee Substitute, insert the following: The bonds or other obligations that by their terms are payable from the tax may not be paid in whole or in part from any property taxes raised or to be raised by the eligible city and are not a debt of and do not give rise to a claim for payment against the eligible city except as to sales and use tax revenue held by a city and required under this section to be paid over to the corporation.

**HCR 309** was adopted without objection.

### **HB 1794 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1794**, A bill to be entitled An Act relating to private club alcoholic beverage accounts.

On motion of Representative Wise, the house concurred in the senate amendments to **HB 1794**.

#### **Senate Committee Substitute**

**CSHB 1794**, A bill to be entitled An Act relating to private club alcoholic beverage accounts.

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

SECTION 1. Section 32.06, Alcoholic Beverage Code, is amended to read as follows:

Sec. 32.06. POOL SYSTEM. (a) The pool system of storage may be used in any area. Under this system all members of a pool participate equally in the original purchase of all alcoholic beverages. The original purchase may be funded by a cash contribution from each member or from a loan to the club by a third person guaranteed by all the members. A person who provides a loan to the club under this subsection may be related or unrelated to the club. A loan for the original purchase may be repaid from the alcoholic beverages replacement account. The replacement of all alcoholic beverages shall be paid for either by money assessed equally from each member and collected in advance or by the establishment of an alcoholic beverages replacement account in which a designated percentage of each charge for the service of alcoholic beverages, as determined by the club's governing body, is deposited.

(b) If an alcoholic beverages replacement account is used:

(1) each service check shall have printed on it the percentage of the service charge that is to be deposited in the alcoholic beverages replacement account;

(2) no money other than the designated percentage of service charges may be deposited in the replacement account;

(3) the replacement of alcoholic beverages may be paid for only from money in the replacement account;

(4) the club's governing body may transfer from the replacement account to the club's general operating account any portion of the replacement account that the governing body determines is in excess of the amount that will be needed to purchase replacement alcoholic beverages or repay a loan for the original purchase of alcoholic beverages, but it may make only one transfer in a calendar month; and

(5) the club shall maintain a monthly record of the total amount of alcoholic beverage service charges collected, the amount deposited in the replacement account, the amount used to purchase alcoholic beverages or repay a loan for the original purchase of alcoholic beverages, and the amount transferred to the club's general operating account.

(c) A private club may combine the club's alcoholic beverages replacement account, general operating account, and any other account into a single master account if the master account is maintained in accordance with generally accepted accounting principles and the club is able to generate statements reflecting the funds allocated to each component account. If the club contracts with a third party to provide management or other services for the club, the club may permit the club's master account to be combined with the master accounts of other clubs to which the third party provides similar services if the combined account is maintained in accordance with generally accepted accounting principles and the third party is able to generate, for the commissioner's review on request, statements reflecting the funds allocated to each component account of the combined account and the club's master account.

SECTION 2. This Act applies to the holder of a food and beverage certificate.

SECTION 3. This Act takes effect September 1, 2001.

### **HB 1811 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1811**, A bill to be entitled An Act relating to the use of certain federal housing funds.

On motion of Representative Kolkhorst, the house concurred in the senate amendments to **HB 1811**.

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

Amend **HB 1811** as follows:

A) On page 1, line 10, strike "small cities and rural".

B) On page 1, line 17, delete "small cities and rural" and substitute "non-participating".

**HB 1831 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 1831**, A bill to be entitled An Act relating to the general power of the Texas Department of Transportation to contract.

Representative Pickett moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1831**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1831**: Pickett, chair, Hawley, Hamric, Swinford, and Hill.

**HB 1839 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 1839**, A bill to be entitled An Act relating to research and excellence funding at certain institutions of higher education.

Representative Giddings moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 1839**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 1839**: Junell, chair, Wolens, Giddings, Thompson, and D. Jones.

**HB 1856 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1856**, A bill to be entitled An Act relating to the use of certain voting systems.

On motion of Representative Danburg, the house concurred in the senate amendments to **HB 1856**.

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

Amend **HB 1856** as follows:

On page 1, line 16, add the following sentence:

"This subdivision does not prohibit the use of a punch card ballot system or similar form of tabulating card if such system was adopted prior to September 1, 2001."

**HB 1887 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1887**, A bill to be entitled An Act relating to the rights of patients receiving mental health services.

On motion of Representative Capelo, the house concurred in the senate amendments to **HB 1887** by (Record 565): 132 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Pickett; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Seaman; Shields; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Uresti; Villarreal; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; Turner, S.; West.

Absent, Excused, Committee Meeting — Dunnam; Hardcastle; Olivo; Sadler; Smith.

Absent — Chavez; McCall; Moreno, P.; Salinas; Uher; Walker.

**Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 1887** by striking Section 574.154, Health and Safety Code, as added by SECTION 1 of the bill (Senate Committee Printing, page 1, lines 40-47), and substituting a new Section 574.154 to read as follows:

Sec. 574.154. PARTICIPATION IN RESEARCH PROGRAM. Notwithstanding any other law, a person described by Section 574.151 may not participate in a research program in the inpatient mental health facility unless:

(1) the patient provides written consent to participate in the research program under a protocol that has been approved by the facility's institutional review board; and

(2) the institutional review board specifically reviews the patient's consent under the approved protocol.

**HB 1913 - HOUSE CONCURS IN SENATE AMENDMENTS  
TEXT OF SENATE AMENDMENTS**

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

**HB 1913**, A bill to be entitled An Act relating to termination of certain contracts by a preferred provider organization or health maintenance organization.

On motion of Representative Capelo, the house concurred in the senate amendments to **HB 1913** by (Record 566): 134 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Luna; Madden; Marchant; Martinez Fischer; Maxey; McCall; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Pickett; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Seaman; Shields; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbraneck.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; Turner, S.; West.

Absent, Excused, Committee Meeting — Dunnam; Hardcastle; Olivo; Sadler; Smith.

Absent — McClendon; Moreno, P.; Pitts; Salinas.

**Senate Amendment No. 1 (Senate Floor Amendment No. 1)**

Amend **HB 1913** as follows:

(1) In SECTION 1 of the bill, in Subsection (g), Section 3, Article 3.70-3C, Insurance Code, as amended by the bill (Senate committee printing, page 1, lines 34-36) strike "the peer review process must be initiated simultaneously with the termination or suspension" and substitute the following:

"the insurer may immediately suspend the physician or practitioner if the physician's or practitioner's facility admission privileges have been revoked or suspended for longer than 30 days because of quality of care issues or the physician or provider is subject to an order of the Texas State Board of Medical Examiners that revokes, suspends, or restricts the physician's or provider's license, if the review process is initiated simultaneously with the termination or suspension".

(2) In SECTION 2 of the bill, in Subsection (b), Section 18A, Texas Health Maintenance Organization Act (Article 20A.18A, Vernon's Texas Insurance Code), as amended by the bill (Senate committee printing, page 2, lines 19-20) strike "the peer review process must be initiated simultaneously with the termination or suspension" and substitute the following:

"the health maintenance organization may immediately suspend the physician or practitioner if the physician's or practitioner's facility admission privileges have been revoked or suspended for longer than 30 days because of quality of care issues or the physician or provider is subject to an order of the Texas State Board of Medical Examiners that revokes, suspends, or restricts the physician's or provider's license, if the peer review process is initiated simultaneously with the termination or suspension".

### **Senate Amendment No. 2 (Senate Floor Amendment No. 2)**

Amend **HB 1913** as follows:

(1) In SECTION 1 of the bill, in Subsection (g), Section 3, Article 3.70-3C, as amended by the bill:

(A) strike "utilization review," (Senate committee printing, page 1, line 23); and

(B) between "quality review," and "or" (Senate committee printing, page 1, line 23), insert "including quality issues involving utilization patterns".

(2) In SECTION 2 of the bill, in Subsection (b), Section 18A, Texas Health Maintenance Organization Act (Article 20A.18A, Vernon's Texas Insurance Code), as amended by the bill:

(A) strike "utilization review," (Senate committee printing, page 2, lines 6 and 7); and

(B) between "quality review," and "or" (Senate committee printing, page 2, line 7), insert "including quality issues involving utilization patterns".

### **Senate Amendment No. 3 (Senate Floor Amendment No. 3)**

Amend **HB 1913** as follows:

(1) In the recital to SECTION 1 of the bill, strike "and adding Subsections (o) and (p)" (Senate committee printing, page 1, lines 13-14).

(2) In SECTION 1 of the bill, strike added Subsections (o) and (p), Section 3, Article 3.70-3C, Insurance Code (Senate committee printing, page 1, lines 46-56).

(3) In the recital to SECTION 2 of the bill, strike "and adding Subsections (k) and (l)" (Senate committee printing, page 1, lines 60-61).

(4) In SECTION 2 of the bill, strike added Subsections (k) and (l), Section 18A, Texas Health Maintenance Organization Act (Article 20A.18A, Vernon's Texas Insurance Code) (Senate committee printing, page 2, lines 32-43).

## **HB 1938 - HOUSE CONCURS IN SENATE AMENDMENTS TEXT OF SENATE AMENDMENTS**

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

**HB 1938**, A bill to be entitled An Act relating to education loans made or financed by a higher education authority or nonprofit corporation.

On motion of Representative Solis, the house concurred in the senate amendments to **HB 1938** by (Record 567): 135 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Alexander; Allen; Averitt; Bailey; Berman; Bonnen; Bosse; Brimer; Brown, B.; Brown, F.; Burnam; Callegari; Capelo; Carter; Chavez; Chisum; Christian; Clark; Coleman; Cook; Corte; Counts; Crabb; Craddick; Crownover; Danburg; Davis, J.; Davis, Y.; Delisi; Denny; Deshotel; Driver; Dukes; Dutton; Edwards; Ehrhardt; Eiland; Elkins; Ellis; Farabee; Farrar; Flores; Gallego; Garcia; George; Geren; Giddings; Glaze; Goodman; Goolsby; Gray; Green; Grusendorf; Gutierrez; Haggerty; Hamric; Hartnett; Hawley; Heflin; Hilderbran; Hill; Hinojosa; Hochberg; Hodge; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Janek; Jones, D.; Jones, J.; Keel; Keffer; King, P.; King, T.; Kitchen; Kolkhorst; Krusee; Kuempel; Lewis, G.; Lewis, R.; Longoria; Madden; Marchant; Martinez Fischer; Maxey; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, J.; Morrison; Mowery; Naishtat; Najera; Nixon; Noriega; Oliveira; Pickett; Pitts; Puente; Ramsay; Raymond; Reyna, A.; Reyna, E.; Ritter; Seaman; Shields; Smithee; Solis; Solomons; Swinford; Talton; Telford; Thompson; Tillery; Truitt; Turner, B.; Uher; Uresti; Villarreal; Walker; Williams; Wilson; Wise; Wohlgemuth; Wolens; Woolley; Yarbrough; Zbranek.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hilbert; Jones, E.; Junell; Rangel; Turner, S.; West.

Absent, Excused, Committee Meeting — Dunnam; Hardcastle; Olivo; Sadler; Smith.

Absent — Luna; Moreno, P.; Salinas.

### Senate Committee Substitute

**CSHB 1938**, A bill to be entitled An Act relating to education loans made or financed by a higher education authority or nonprofit corporation.

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

SECTION 1. Section 53.47, Education Code, is amended to read as follows:

Sec. 53.47. GUARANTEED STUDENT LOANS AND ALTERNATE EDUCATION LOANS; BONDS FOR THE PURCHASE OF EDUCATION LOAN NOTES. (a) In this section:

(1) "Accredited institution" means an institution that has either been recognized by a recognized accrediting agency, as defined by Section 61.003, or accredited by the Accrediting Commission for Independent Colleges and Schools, the Accrediting Commission for Career Schools and Colleges of Technology, or the National Accrediting Commission of Cosmetology Arts and Sciences.

(2) "Alternative education loan" means a loan other than a guaranteed student loan that is made to or for the benefit of a student for the purpose of financing all or part of the student's cost of attendance at an accredited institution.



(3) "Cost of attendance" means all costs of a student incurred in connection with a program of study at an accredited institution, as determined by the institution, including tuition and instructional fees, the cost of room and board, books, computers, and supplies, and other related fees, charges, and expenses.

(4) "Guaranteed student loan" means a loan made by an eligible lender under the Higher Education Act of 1965 (Pub. L. No. 89-329), as amended.

(5) "Qualified alternative education loan lender" means a nonprofit corporation incorporated under the laws of this state that:

(A) is a qualified nonprofit corporation;

(B) has serviced education loans made under the Higher Education Act of 1965, as amended, for a qualified nonprofit corporation for a period of not less than 10 years; or

(C) is a charitable organization qualified under Section 509(a)(2), Internal Revenue Code of 1986, as amended, that provides services to a qualified nonprofit corporation.

(6) "Qualified nonprofit corporation" means a nonprofit corporation:

(A) that issued bonds on or after January 1, 1990, and before January 1, 2001, that qualified as qualified student loan bonds under Section 144(b), Internal Revenue Code of 1986, as amended; or

(B) that the office of the governor, in consultation with the state student loan guaranty agency or any other public or private entity the office of the governor considers appropriate, has determined meets a need for student loan financing that existing qualified nonprofit corporations cannot meet, which determination may include information provided by the nonprofit corporation's plan for doing business that should include documented limitations in:

(i) the geographic coverage of existing qualified nonprofit corporations in the nonprofit corporation's proposed area of service;

(ii) the willingness of existing qualified nonprofit corporations to serve the eligible lenders in the proposed area of service; and

(iii) the ability of existing qualified nonprofit corporations to serve the eligible lenders in the proposed area of service.

(b) An authority may, upon approval of the city or cities which created the same, issue revenue bonds or otherwise borrow money to obtain funds to purchase or to make guaranteed student loans [~~student or parent loan notes which are guaranteed under the provisions of the Higher Education Act of 1965 (Public Law 89-329)].~~ Revenue bonds issued for such purpose shall be issued in accordance with and with the effect provided in this chapter, except Section 53.36 shall not apply, as this [said] chapter has been modified by Chapter 1204, Government Code, and Subchapters A and D, Chapter 1207, Government Code [3, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 717k-2, Vernon's Texas Civil Statutes), and by Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes)]. Such bonds shall be payable from and secured by a pledge of revenues derived from or by reason of the ownership of guaranteed student loans [~~student or parent loan notes~~] and investment income after

deduction of such expenses ~~of~~ ~~or~~ operating the loan program as may be specified by the bond resolution or trust indenture.

(c) ~~[(b)]~~ An authority ~~[that is not an eligible lender under the Higher Education Act of 1965, acting through a bank with trust powers;]~~ may cause money to be expended to ~~make or purchase~~ for its account guaranteed student loans ~~[student or parent loan notes]~~ that are guaranteed by the Texas Guaranteed Student Loan Corporation or that are executed by or on behalf of students who (1) are residents of this state or (2) ~~[who]~~ have been admitted to attend an accredited institution within this state. ~~[An accredited institution shall mean an institution which has either been recognized by a recognized accrediting agency, as defined by Section 61.003(12) of the Texas Education Code, or accredited by the Association of Independent Colleges and Schools, the National Association of Trade and Technical Schools, or the National Accrediting Commission of Cosmetology Arts and Sciences.]~~

(d) ~~[(c)]~~ The authority shall contract with a nonprofit corporation, organized under the laws of this state, whereby such corporation will provide the reports and other information required for continued participation in the federally guaranteed loan program provided by the Higher Education Act of 1965, as amended ~~[(Public Law 89-329)]~~. ~~[The custody of student or parent loan notes, purchased by the bank on behalf of the authority, shall remain under the control of a bank with trust powers.]~~

(e) ~~[(d)]~~ The authority, as a municipal corporation of the state, is charged with a portion of the responsibility of the state to provide educational opportunities in keeping with all applicable state and federal laws. Nothing in this section shall be construed as a prohibition against establishing policies to limit the purchase of guaranteed student loans to guaranteed student loans ~~[notes to notes]~~ executed by students attending school in a certain geographical area or by students who are residents of the area.

(f) ~~[(e)]~~ In addition to establishing an authority under the provisions of this chapter, the governing body of a city or cities may request a qualified nonprofit corporation ~~[organized]~~ to exercise the powers enumerated and provided in this section for and on its behalf. If the qualified nonprofit corporation agrees to exercise such powers, the directors of such corporation shall thereafter be appointed by and be subject to removal by the governing body of the city or cities, and except as provided in this section, Sections 53.14, 53.15, 53.31, 53.32, 53.38, and 53.41 through 53.43 ~~[of the Texas Education Code shall]~~ apply to and govern such corporation, its procedures, and bonds. Notwithstanding the provisions of Section 53.42, a qualified nonprofit corporation which has been requested to exercise the powers enumerated and requested in this section may invest or cause a trustee or custodian on behalf of such qualified nonprofit corporation~~[-]~~ to invest its funds, including the proceeds of any bonds, notes, or other obligations issued by such qualified nonprofit corporation and any monies which are pledged to the payment thereof, in:

(1) certificates of deposit or other time or demand accounts of banks and savings and loan associations which are insured by the Federal Deposit Insurance Corporation ~~[or the Federal Savings and Loan Insurance Corporation]~~, provided the amount of any certificate of deposit in excess of that covered by such insurance must be secured by a first and prior pledge of government obligations having a market value of not less than 100 percent of the excess unless a nationally recognized rating agency has given the

senior securities of the bank issuing the certificate of deposit the highest or next to the highest investment rating available;

(2) repurchase agreements;

(3) guaranteed student loans and alternative education loans [~~investment securities, as defined by Chapter 726, Acts of the 67th Legislature, Regular Session, 1981 (Article 2529b-1, Vernon's Texas Civil Statutes);~~];

~~[(4) a collective investment fund that is created as provided by Regulation 9 of the Office of the Comptroller of the Currency and that is invested in one or more types of investment securities or repurchase agreements;~~

~~[(5) an investment authorized by Subchapter A, Chapter 2256, Government Code]; or~~

(4) ~~[(6)]~~ a security issued by another nonprofit corporation acting under this section.

~~(g) [(f)]~~ A nonprofit corporation, whether acting at the request of a city or cities under Subsection (f) or acting as a servicer or administrator for another corporation that purchases guaranteed student loans, ~~[(e)]~~ or that on its own behalf~~;~~ ~~that~~ issues securities or otherwise obtains ~~[to obtain]~~ funds to purchase or make guaranteed student loans or alternative education ~~[student or parent] loans~~, may:

(1) exercise the powers granted by the Texas Non-Profit Corporation Act (Article 1396-1.01 et seq., Vernon's Texas Civil Statutes);

(2) service loans purchased or made from its funds or contract with another person to service the loans;

(3) grant a security interest in a trust estate securing its securities;

~~[(4) purchase or make a student or parent loan that is guaranteed or insured, in whole or part, by one or more persons engaged in guaranteeing or insuring student or parent loans, including any agency of the federal government;] and~~

(4) ~~[(5)]~~ make investments as authorized by Subsection (f) ~~[(e)]~~.

~~(h) [(g)]~~ A security interest in a trust estate granted under Subsection ~~(g)(3) [(f)(3)]~~ is attached and perfected at the time the security interest is executed and delivered by the nonprofit corporation. The security interest grants to the secured party a first prior perfected security interest in the trust estate for the benefit of the secured party without regard to the location of the assets that constitute the trust estate.

(i) An alternative education loan may be made under this section only by a qualified alternative education loan lender. An alternative education loan may not be in an amount in excess of the difference between the cost of attendance and the amount of other student assistance to the student, other than loans under Section 428B(a)(1), Higher Education Act of 1965 (20 U.S.C. Section 1078-2) (relating to parent loans), for which the student borrower may be eligible. An alternative education loan covered by this subsection is subject to Chapter 342, Finance Code, as applicable, except that:

(1) the maximum interest rate on the loan may not exceed the rate permitted under Subchapter A, Chapter 303, Finance Code; and

(2) application and origination fees may be agreed to by the parties and assessed at the inception of the loan, provided that if any such fees constitute additional interest under applicable law, the effective rate of interest agreed to over the stated term of the loan may not exceed the rate

allowed by Subchapter A, Chapter 303, Finance Code, and accrued unpaid interest may be added to unpaid principal at the beginning of the agreed repayment period at the borrower's option and in accordance with the terms of the agreement for purposes of determining the total principal amount due at the inception of the repayment period.

(j) An authority or nonprofit corporation making education loans under this section is exempt from the licensing requirements of Chapter 342, Finance Code.

(k) Subsection (a)(6) expires September 1, 2003. On or after September 1, 2003, in this section, the term "qualified nonprofit corporation" means any nonprofit corporation authorized by a city to exercise the powers of an authority under this section.

SECTION 2. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2001.

**HB 2005 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 2005**, A bill to be entitled An Act relating to the creation, administration, powers, duties, operation, and financing of the Trinity Glen Rose Groundwater Conservation District.

Representative Corte moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2005**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2005**: Corte, chair, Counts, Walker, T. King, and Puente.

**HB 2404 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

Representative R. Lewis called up with senate amendments for consideration at this time,

**HB 2404**, A bill to be entitled An Act relating to the submetering and allocation of water service in apartment houses, manufactured home rental communities, condominiums, and other multiple use facilities.

Representative R. Lewis moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2404**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2404**: R. Lewis, chair, Corte, Hope, Cook, and T. King.

**HB 2530 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 2530**, A bill to be entitled An Act relating to certain prohibitions applicable to a person offering a sweepstakes; providing a civil penalty.

Representative Hartnett moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2530**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2530**: Junell, chair, Hartnett, McReynolds, Martinez Fischer, and Averitt.

**HB 2684 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 2684**, A bill to be entitled An Act relating to the authority of the Texas Transportation Commission to acquire certain protected property.

Representative Kuempel moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 2684**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 2684**: Kuempel, chair, Y. Davis, Kolkhorst, E. Jones, and Truitt.

**HB 3507 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 3507**, A bill to be entitled An Act relating to the regulation of dentistry and the provision of dental services.

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

Representative Berman offered a substitute motion that the house concur in the senate amendments to **HB 3507**.

Representative Maxey moved to table the substitute motion.

The motion to table prevailed.

The motion to not concur in the senate amendments to **HB 3507** prevailed.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3507**: Maxey, chair, Gray, Thompson, Wohlgemuth, and Gallego.

**HB 3572 - HOUSE REFUSES TO CONCUR  
IN SENATE AMENDMENTS  
CONFERENCE COMMITTEE APPOINTED**

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

**HB 3572**, A bill to be entitled An Act relating to establishing an unrelated donor umbilical cord blood bank.

Representative Crossover moved that the house not concur in the senate amendments and that a conference committee be requested to adjust the differences between the two houses on **HB 3572**.

The motion prevailed without objection.

The chair announced the appointment of the following conference committee, on the part of the house, on **HB 3572**: George, chair, Gray, Coleman, E. Jones, and Puente.

**HCR 315 - ADOPTED  
(by B. Turner)**

The following privileged resolution was laid before the house:

**HCR 315**

WHEREAS, **HB 2040** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

WHEREAS, The bill contains a technical error in a cross-reference that should be corrected; now, therefore, be it

RESOLVED by the 77th Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to correct **HB 2040** in proposed Section 378.006(c), Local Government Code, by striking "Subsection (a)" and substituting "Subsection (b) [~~(a)~~]".

**HCR 315** was adopted without objection.

**HCR 314 - ADOPTED  
(by Carter)**

The following privileged resolution was laid before the house:

**HCR 314**

WHEREAS, **HB 2744** has been adopted by the house of representatives and the senate and is being prepared for enrollment; and

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

RESOLVED by the 77th Legislature of the State of Texas, That the enrolling clerk of the house of representatives be instructed to correct **HB 2744** as follows:

(1) In Section 6 of the bill, in amended Section 775.071(b), Health and Safety Code, strike "775.079".

(2) In Section 11 of the bill, in amended Section 776.071(b), Health and Safety Code, strike "776.079".

(3) In Section 18 of the bill, in amended Section 794.071(b), Health and Safety Code, strike "794.079".

**HCR 314** was adopted without objection.

**HR 1169 - ADOPTED**  
(by Garcia)

Representative Garcia moved to suspend all necessary rules to take up and consider at this time **HR 1169**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HR 1169**, In memory of Estela Hernandez Palomares of San Antonio.

**HR 1169** was unanimously adopted by a rising vote.

**HR 1271 - ADOPTED**  
(by Hilderbran and T. King)

Representative Hilderbran moved to suspend all necessary rules to take up and consider at this time **HR 1271**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HR 1271**, Honoring Jack and Dorothy Stevens of Uvalde on their 50th wedding anniversary.

**HR 1271** was adopted without objection.

**HCR 289 - ADOPTED**  
(by Ellis)

Representative Ellis moved to suspend all necessary rules to take up and consider at this time **HCR 289**.

The motion prevailed without objection.

The following resolution was laid before the house:

**HCR 289**, Honoring Marshall Herklotz of Huntsville on his retirement from the Texas Department of Criminal Justice.

(Smith now present)

**HCR 289** was adopted without objection.

**ADJOURNMENT**

Representative Smith moved that the house adjourn until 10 a.m. tomorrow in memory of Hugh White and Christine Steele of Streetman.

The motion prevailed without objection.

The house accordingly, at 6:51 p.m., adjourned until 10 a.m. tomorrow.

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**ADDENDUM**

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**REFERRED TO COMMITTEES**

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

**List No. 1**

**HCR 307** (By Solis), Memorializing the United States Congress to create a United States Department of Agriculture U.S. Hispanic Nutrition Education and Research Center.

To Public Health.

**HR 1206** (By Krusee), Honoring Rachel Traxler of Round Rock for receiving the 2001 Great American award from Caldwell Heights Elementary School.

To Rules & Resolutions.

**HR 1207** (By Hamric), Honoring the House Research Organization for its service during the 77th Regular Session.

To Rules & Resolutions.

**HR 1208** (By Kitchen, Naishtat, Dukes, and Keel), Honoring Detective Mike Sheffield, president of the Austin Police Association for the many significant contributions he has made to the field of law enforcement in Texas.

To Rules & Resolutions.

**HR 1212** (By Christian), Honoring Floyd A. "Doc" and Fannie Watson of Paxton for their community service.

To Rules & Resolutions.

**HR 1213** (By Christian), Commending S. W. Carter for his service to the Shelby County community.

To Rules & Resolutions.

**HR 1215** (By Driver), Honoring Frank LoCraсто of Garland on being named a 2001 Presidential Scholar.

To Rules & Resolutions.

**HR 1216** (By J. Jones, Y. Davis, Giddings, and Hodge), In memory of Reginald Jack Jones of Dallas.

To Rules & Resolutions.



**HR 1217** (By Green), Supporting the selection of Southwest Texas State University as the Southwest Regional Humanities Center by the National Endowment for the Humanities.

To Rules & Resolutions.

**HR 1219** (By Capelo), Congratulating Yolanda Acuna Uresti on the completion of her master's degree and commending her for her exemplary public spirit and dedication.

To Rules & Resolutions.

**HR 1221** (By West), Honoring the memory of Roy Green of Midland.

To Rules & Resolutions.

**HR 1222** (By West), In memory of Daniel Fishburne Secker of Midland.

To Rules & Resolutions.

**HR 1225** (By J. Jones), Honoring Billye Suber Williams Aaron of Atlanta, Georgia, for her civic achievements and her election to the board of trustees of Texas College in Tyler.

To Rules & Resolutions.

**HR 1226** (By J. Jones), Congratulating Dr. Robert H. Wilson, Sr., on his 20th pastoral anniversary with Cornerstone Baptist Church of Christ in Dallas.

To Rules & Resolutions.

**HR 1227** (By J. Jones), Honoring Timothy Jerome Walker, Jr., of Dallas for being selected to participate in the Presidential Classroom Program.

To Rules & Resolutions.

**HR 1229** (By Flores), Congratulating the La Joya High School softball and baseball teams on their outstanding 2000-2001 season.

To Rules & Resolutions.

**HR 1230** (By Dunnam), Honoring Ada M. Neal on her retirement from the Waco Independent School District.

To Rules & Resolutions.

**HR 1231** (By Merritt), Honoring Howard Rosser of Longview.

To Rules & Resolutions.

**HR 1232** (By Delisi), In memory of Alfred Charles "A. C." Johnson of Waco.

To Rules & Resolutions.

**HR 1234** (By Glaze), Honoring the memory of William H. Humphries of Tyler.

To Rules & Resolutions.

**HR 1236** (By Uher, et al.), In memory of the Honorable Raul L. Longoria.

To Rules & Resolutions.

**HR 1241** (By Goolsby), Honoring Randy and Megan Cooley of Grapevine on their recent marriage.

To Rules & Resolutions.

**HR 1242** (By Goolsby), Honoring Dr. Theodore P. Votteler of Dallas on the occasion of his retirement and for his notable achievements in the medical field.

To Rules & Resolutions.

**HR 1245** (By West), In memory of Neal Clifton of Midland.

To Rules & Resolutions.

**List No. 2**

**HR 1218** (By Pitts), Honoring Lois Ewald of Austin on her retirement as executive director of the Texas Optometry Board.

To Rules & Resolutions.

**HR 1248** (By Flores), Honoring Anabel Rios from Roosevelt Alternative School for receiving a 2000-2001 Teacher of the Year award from the Mission Consolidated Independent School District.

To Rules & Resolutions.

**HR 1249** (By Flores), Honoring Maricela Cruz Munoz from Mission Junior High School for receiving a 2000-2001 Teacher of the Year award from the Mission Consolidated Independent School District.

To Rules & Resolutions.

**HR 1250** (By Flores), Honoring Irma Trevino from Pearson Elementary School for receiving a 2000-2001 Teacher of the Year award from the Mission Consolidated Independent School District.

To Rules & Resolutions.

**HR 1251** (By Flores), Honoring Lou Anne Bell from Mims Elementary School for receiving a 2000-2001 Teacher of the Year award from the Mission Consolidated Independent School District.

To Rules & Resolutions.

**HR 1252** (By Flores), Honoring Yolanda M. Ramirez from Leal Elementary School for receiving a 2000-2001 Teacher of the Year award from the Mission Consolidated Independent School District.

To Rules & Resolutions.

**HR 1255** (By Flores), Honoring Orlando Eduardo Olivarez from Cantu Elementary School for receiving a 2000-2001 Teacher of the Year award from the Mission Consolidated Independent School District.

To Rules & Resolutions.

**HR 1256** (By Flores), Honoring Terry Wolfe from Mission High School for receiving a 2000-2001 Teacher of the Year award from the Mission Consolidated Independent School District.

To Rules & Resolutions.

**HR 1257** (By Flores), Honoring Nadine S. Plunkett from Mission Ninth Grade School for receiving a 2000-2001 Teacher of the Year award from the Mission Consolidated Independent School District.

To Rules & Resolutions.

**HR 1258** (By Flores), Honoring Alma G. Esqueda from K. White Junior High School for receiving a 2000-2001 Teacher of the Year award from the Mission Consolidated Independent School District.

To Rules & Resolutions.

**HR 1259** (By Hartnett), Commending the Republican precinct chairs of Dallas County for their exemplary service to the citizens of Texas.

To Rules & Resolutions.

**HR 1260** (By Flores), Honoring Maria Teresa Garcia from Waitz Elementary School for receiving a 2000-2001 Teacher of the Year award from the Mission Consolidated Independent School District.

To Rules & Resolutions.

**HR 1261** (By Flores), Honoring Guadalupe M. Garza from Salinas Elementary School for receiving a 2000-2001 Teacher of the Year award from the Mission Consolidated Independent School District.

To Rules & Resolutions.

**HR 1262** (By Flores), Honoring Nora Lisa Cerda from O'Grady Elementary School for receiving a 2000-2001 Teacher of the Year award from the Mission Consolidated Independent School District.

To Rules & Resolutions.

**HR 1263** (By Flores), Honoring Cecilia Sarinana from Marcell Elementary School for receiving a 2000-2001 Teacher of the Year award from the Mission Consolidated Independent School District.

To Rules & Resolutions.

**HR 1264** (By Flores), Honoring Leah R. Gonzalez from Castro Elementary School for receiving a 2000-2001 Teacher of the Year award from the Mission Consolidated Independent School District.

To Rules & Resolutions.

**HR 1265** (By Flores), Honoring Mary Villarreal from Bryan Elementary School for receiving a 2000-2001 Teacher of the Year award from the Mission Consolidated Independent School District.

To Rules & Resolutions.

**HR 1266** (By Flores), Honoring Herlinda A. Rodriguez from Alton Elementary School for receiving a 2000-2001 Teacher of the Year award from the Mission Consolidated Independent School District.

To Rules & Resolutions

### **SIGNED BY THE SPEAKER**

The following bills and resolutions were today signed in the presence of the house by the speaker:

#### **House List No. 65**

**HB 78, HB 83, HB 612, HB 627, HB 674, HB 694, HB 715, HB 779, HB 842, HB 1072, HB 1137, HB 1194, HB 1276, HB 1316, HB 1387, HB 1426, HB 1440, HB 1592, HB 1612, HB 1614, HB 2331, HB 2347, HB 2382, HB 2391, HB 2400, HB 2405, HB 2408, HB 2413, HB 2415, HB 2419, HB 2492, HB 2558, HB 2559, HB 2579, HB 2806, HB 3001, HB 3161, HB 3333, HB 3349, HB 3351, HB 3359, HB 3364, HB 3378, HB 3387, HB 3465,**

HB 3504, HB 3526, HB 3627, HB 3628, HB 3629, HB 3630, HB 3633, HB 3635, HB 3643, HB 3646, HCR 41, HCR 102, HCR 109, HCR 118, HCR 174, HCR 177, HCR 200, HCR 214, HCR 223, HCR 226, HCR 227, HCR 236, HCR 245, HCR 248, HCR 250, HCR 254, HCR 255, HCR 256, HCR 296

House List No. 66

HB 15, HB 31, HB 99, HB 119, HB 195, HB 218, HB 249, HB 280, HB 298, HB 407, HB 412, HB 434, HB 451, HB 456, HB 468, HB 485, HB 489, HB 497, HB 539, HB 567, HB 691, HB 1268, HB 1599, HB 1610, HB 1823, HB 1880, HB 2247, HB 2265, HB 2279, HB 2327, HB 2334, HB 2423, HB 2475, HB 2482, HB 2488, HB 2529, HB 2587, HB 2593, HB 2638, HB 2650, HB 2658, HB 2682, HB 2706, HB 2731, HB 2756, HB 2758, HB 2760, HB 2761, HB 2763, HB 2767, HB 2769, HB 2780, HB 2782, HB 2784, HB 2788, HB 2811, HB 2812, HB 2813, HB 3153, HB 3498, HB 3603, HB 3663, HB 3664, HB 3670, HB 3671, HB 3676, HB 3677, HB 3693, HB 3695, HCR 267

House List No. 67

HB 5, HB 7, HB 35, HB 370, HB 374, HB 563, HB 689, HB 803, HB 910, HB 1071, HB 1209, HB 1377, HB 1495, HB 1537, HB 1575, HB 1621, HB 1639, HB 1676, HB 1723, HB 1748, HB 1813, HB 1820, HB 1948, HB 2028, HB 2046, HB 2065, HB 2097, HB 2134, HB 2144, HB 2156, HB 2249, HB 2270, HB 2273, HB 2388, HB 2574, HB 2588, HB 2673, HB 2681, HB 2687, HB 2718, HB 2719, HB 2728, HB 2751, HB 2786, HB 2798, HB 2881, HB 2888, HB 2987, HB 2989, HB 2994, HB 2997, HB 3040, HB 3071, HB 3162, HB 3543, HB 3589, HB 3613, HB 3634, HB 3687, HB 3691, HB 3694, HB 3698, HCR 144, HCR 209, HCR 260, HCR 269, HCR 282, HCR 300, HCR 301, HCR 302, HCR 303, HCR 305, HJR 44

Senate List No. 35

SB 18, SB 40, SB 53, SB 159, SB 194, SB 200, SB 214, SB 252, SB 257, SB 263, SB 283, SB 332, SB 390, SB 395, SB 454, SB 456, SB 482, SB 486, SB 496, SB 497, SB 505, SB 531, SB 557, SB 586, SB 593, SB 625, SB 671, SB 691, SB 720, SB 751, SB 769, SB 799, SB 840, SB 847, SB 869, SB 903, SB 932, SB 998, SB 1001, SB 1006, SB 1016, SB 1024, SB 1036, SB 1053, SB 1064, SB 1085, SB 1160, SB 1174, SB 1176, SB 1180, SB 1214, SB 1226, SB 1235, SB 1288, SB 1293, SB 1294, SB 1302, SB 1345, SB 1353, SB 1367, SB 1390, SB 1396, SB 1417, SB 1470, SB 1581, SB 1632, SB 1659, SB 1683, SB 1713, SB 1727, SB 1732, SB 1736, SB 1758, SB 1759, SB 1781, SB 1782, SB 1784, SB 1793, SB 1796, SB 1800, SB 1807, SB 1808, SB 1818, SB 1823, SB 1831, SB 1840, SCR 1, SCR 2, SCR 21, SCR 24, SCR 35, SCR 37, SCR 51, SCR 54, SJR 32

**MESSAGES FROM THE SENATE**

The following messages from the senate were today received by the house:

**Message No. 1**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Thursday, May 24, 2001

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

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

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**HB 609** Hochberg SPONSOR: Shapiro  
Relating to internal auditing of state agencies.

Respectfully,

Betty King  
Secretary of the Senate

**Message No. 2**

MESSAGE FROM THE SENATE  
SENATE CHAMBER  
Austin, Texas  
Thursday, May 24, 2001 - 2

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

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

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**HCR 120** Lewis, Glenn SPONSOR: Moncrief  
Honoring the Work Advantage Tarrant County Workforce Development Board for its many civic contributions.

**HCR 128** Lewis, Glenn SPONSOR: Moncrief  
Honoring Steve Palko for being named Business Volunteer of the Year by the National Alliance of Business.

**HCR 290** Dunnam SPONSOR: Sibley  
Honoring the memory of Richard Dale Cottle of Woodway.

**HCR 304** Junell  
Honoring Colby Donaldson of Dallas on his award.

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

- SB 158** (30 Yeas, 0 Nays, 1 Present Not Voting)  
**SB 177** (30 Yeas, 0 Nays, 1 Present Not Voting)  
**SB 218** (viva-voce vote)  
**SB 272** (viva-voce vote)  
**SB 314** (viva-voce vote)  
**SB 355** (30 Yeas, 0 Nays, 1 Present Not Voting)  
**SB 367** (viva-voce vote)  
**SB 377** (viva-voce vote)  
**SB 643** (viva-voce vote)  
**SB 697** (viva-voce vote)  
**SB 766** (viva-voce vote)  
**SB 961** (viva-voce vote)  
**SJR 37** (30 Yeas, 0 Nays, 1 Present Not Voting)

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

**SB 45**  
Senate Conferees: Zaffirini - Chair/Bernsen/Carona/Moncrief/Nelson

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

**HB 787**  
Senate Conferees: Madla - Chair/Bernsen/Gallegos/Harris/Lucio

**HB 2446**  
Senate Conferees: Madla - Chair/Gallegos/Ogden/Staples/Van de Putte

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

- SB 583** (viva-voce vote)  
**SB 684** (30 Ayes, 0 Nays, 1 Present Not Voting)

THE SENATE HAS RECOMMENDED THE FOLLOWING MEASURES TO CONFERENCE COMMITTEE:

**HB 236**

Respectfully,

Betty King  
Secretary of the Senate

**Message No. 3**MESSAGE FROM THE SENATE  
SENATE CHAMBER

Austin, Texas

Thursday, May 24, 2001 - 3

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

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

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

**HB 45**                    McClendon                    SPONSOR: Shapleigh  
Relating to a mile-based rating plan for motor vehicle insurance.  
(AMENDED)

**HB 266**                    Ellis, Dan                    SPONSOR: Ogden  
Relating to the conveyance of certain state property.  
(COMMITTEE SUBSTITUTE/AMENDED)

**HB 553**                    Mowery                    SPONSOR: Armbrister  
Relating to the admissibility in a criminal proceeding of a statement made as a result of certain custodial interrogations and obtained in compliance with the laws of another state or the United States.  
(AMENDED)

**HB 660**                    Seaman                    SPONSOR: Van de Putte  
Relating to career and technology education and training.  
(AMENDED)

**HB 1148**                    Cook                    SPONSOR: Armbrister  
Relating to notice of proposed construction sent to the county commissioners court and others regarding, and the marking, location, and removal of, certain wireless communication facilities.  
(AMENDED)

**HB 1168**                    Wilson                    SPONSOR: Harris  
Relating to certain conduct in lobbying; providing a penalty.  
(COMMITTEE SUBSTITUTE/AMENDED)

**HB 1689**                    Chisum                    SPONSOR: Barrientos  
Relating to an exemption from ad valorem taxation for certain organizations engaged primarily in performing charitable functions.  
(AMENDED)

**HB 1838**                    Denny                    SPONSOR: Nelson  
Relating to the distance between certain pits that are part of quarrying operations and adjacent property.  
(AMENDED)

- HB 1883** Thompson SPONSOR: West, Royce  
Relating to durable powers of attorney and statutory durable powers of attorney.  
(AMENDED)
- HB 1902** Turner, Sylvester SPONSOR: Sibley  
Relating to the purposes for which the system benefit fund may be used.  
(AMENDED)
- HB 1921** Maxey SPONSOR: Gallegos  
Relating to the continuation of adoption assistance after the 18th birthday of certain children.  
(AMENDED)
- HB 2061** Wilson SPONSOR: Cain  
Relating to establishing a historical representation advisory committee.  
(AMENDED)
- HB 2146** Chisum SPONSOR: Bivins  
Relating to provision of certain health benefit claims information to employers.  
(COMMITTEE SUBSTITUTE/AMENDED)
- HB 2263** Danburg SPONSOR: Gallegos  
Relating to a guide for historical markers along roadways in this state.  
(AMENDED)
- HB 2432** Cook SPONSOR: Armbrister  
Relating to the ratification of the creation of and to the administration, powers, duties, operation, and financing of the Lost Pines Groundwater Conservation District.  
(AMENDED)
- HB 2648** Capelo SPONSOR: Madla  
Relating to the administration of epinephrine by certain emergency medical services personnel.  
(AMENDED)
- HB 2890** McClendon SPONSOR: Madla  
Relating to the creation of an offense prohibiting certain persons in custody from contacting their victims.  
(AMENDED)
- HB 2914** Bonnen SPONSOR: Duncan  
Relating to state fiscal matters.  
(AMENDED)
- HB 3081** Burnam SPONSOR: Moncrief  
Relating to imposing liens on aircraft for nonpayment of fuel charges.  
(AMENDED)
- HB 3452** Gallego SPONSOR: Sibley  
Relating to the abolition and transfer of functions of the Texas Department of Economic Development, the operation, funding, and administration of the smart jobs fund program, and the creation of the Office of Strategic Business Development.  
(COMMITTEE SUBSTITUTE/AMENDED)



**HB 3473** Naishtat SPONSOR: Shapleigh  
Relating to prohibiting employer retaliation against certain employees who report child abuse or neglect.  
(AMENDED)

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

- SB 5** (30 Yeas, 0 Nays, 1 Present Not Voting)
- SB 82** (viva-voce vote)
- SB 108** (viva-voce vote)
- SB 326** (30 Yeas, 0 Nays, 1 Present Not Voting)
- SB 350** (viva-voce vote)
- SB 352** (viva-voce vote)
- SB 393** (viva-voce vote)
- SB 484** (30 Yeas, 0 Nays and 1 Present Not Voting)
- SB 779** (viva-voce vote)
- SB 965** (viva-voce vote)
- SB 1467** (viva-voce vote)
- SB 1797** (30 Yeas, 0 Nays and 1 Present Not Voting)

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

**HB 3313**  
Senate Conferees: Bernsen - Chair/Bivins/Gallegos/Staples/Van de Putte

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

- SB 1** (31 Ayes, 0 Nays)
- SB 1074** (viva-voce vote)

Respectfully,

Betty King  
Secretary of the Senate

**Message No. 4**

MESSAGE FROM THE SENATE  
SENATE CHAMBER

Austin, Texas  
Thursday, May 24, 2001 - 4

The Honorable Speaker of the House  
House Chamber  
Austin, Texas

Mr. Speaker:

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

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

- SB 4** (viva-voce vote)
- SB 7** (viva-voce vote)
- SB 354** (30 Yeas, 0 Nays, 1 Present Not Voting)
- SB 430** (viva-voce vote)
- SB 437** (viva-voce vote)
- SB 518** (30 Yeas, 0 Nays, 1 Present Not Voting)
- SB 563** (viva-voce vote)
- SB 616** (viva-voce vote)
- SB 654** (viva-voce vote)
- SB 986** (30 Yeas, 0 Nays, 1 Present Not Voting)
- SB 1047** (30 Yeas, 0 Nays, 1 Present Not Voting)
- SB 1091** (viva-voce vote)
- SB 1164** (30 Yeas, 0 Nays, 1 Present Not Voting)
- SB 1205** (viva-voce vote)
- SB 1268** (viva-voce vote)
- SB 1282** (viva-voce vote)
- SB 1371** (viva-voce vote)
- SB 1536** (30 Yeas, 0 Nays, 1 Present Not Voting)
- SJR 16** (30 Yeas, 0 Nays, 1 Present Not Voting)

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

**SB 273**

Senate Conferees: Armbrister - Chair/Bivins/Cain/Fraser/Staples

**SB 292**

Senate Conferees: Armbrister - Chair/Bivins/Cain/Fraser/Shapiro

**SB 1573**

Senate Conferees: Lindsay - Chair/Bernsen/Brown, J. E. "Buster"/Jackson/Truan

**SB 1839**

Senate Conferees: Moncrief - Chair/Carona/Duncan/Ellis, Rodney/Ogden

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

**HB 328**

Senate Conferees: Madla - Chair/Bivins/Fraser/Lucio/Staples

**HB 1234**

Senate Conferees: Zaffirini - Chair/Moncrief/Shapiro/Staples/Whitmire

**HB 2255**

Senate Conferees: Harris - Chair/Bernsen/Fraser/Jackson/Lucio

THE SENATE HAS ADOPTED THE FOLLOWING CONFERENCE COMMITTEE REPORTS:

**SB 846** (viva-voce vote)

Respectfully,

Betty King

Secretary of the Senate

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**APPENDIX**

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**ENROLLED**

May 23 - HB 78, HB 83, HB 99, HB 119, HB 149, HB 164, HB 170, HB 182, HB 485, HB 489, HB 539, HB 567, HB 596, HB 612, HB 627, HB 628, HB 674, HB 691, HB 694, HB 715, HB 779, HB 811, HB 842, HB 892, HB 927, HB 931, HB 940, HB 949, HB 964, HB 1056, HB 1072, HB 1080, HB 1109, HB 1124, HB 1128, HB 1137, HB 1181, HB 1194, HB 1276, HB 1309, HB 1316, HB 1348, HB 1363, HB 1387, HB 1388, HB 1393, HB 1394, HB 1426, HB 1428, HB 1430, HB 1440, HB 1447, HB 1468, HB 1592, HB 1599, HB 1610, HB 1612, HB 1614, HB 1758, HB 1766, HB 1793, HB 2033, HB 2045, HB 2155, HB 2167, HB 2168, HB 2178, HB 2186, HB 2226, HB 2230, HB 2331, HB 2347, HB 2382, HB 2391, HB 2400, HB 2405, HB 2408, HB 2413, HB 2415, HB 2419, HB 2492, HB 2558, HB 2559, HB 2579, HB 2803, HB 2806, HB 2808, HB 2818, HB 2830, HB 2831, HB 2833, HB 2844, HB 2856, HB 2859, HB 2863, HB 2878, HB 2921, HB 2957, HB 2976, HB 3000, HB 3001, HB 3023, HB 3043, HB 3095, HB 3111, HB 3121, HB 3123, HB 3140, HB 3144, HB 3161, HB 3174, HB 3178, HB 3184, HB 3185, HB 3191, HB 3192, HB 3203, HB 3229, HB 3254, HB 3285, HB 3296, HB 3298, HB 3333, HB 3349, HB 3351, HB 3359, HB 3364, HB 3378, HB 3387, HB 3393, HB 3463, HB 3465, HB 3491, HB 3504, HB 3526, HB 3552, HB 3627, HB 3628, HB 3629, HB 3630, HB 3632, HB 3633, HB 3635, HB 3643, HB 3646, HB 3653, HCR 41, HCR 102, HCR 109, HCR 118, HCR 174, HCR 177, HCR 200, HCR 214, HCR 223, HCR 226, HCR 227, HCR 236, HCR 245, HCR 248, HCR 250, HCR 254, HCR 255, HCR 256, HCR 296

**SENT TO THE GOVERNOR**

May 23 - HB 772, HB 811, HB 840, HB 927, HB 940, HB 1245, HB 1388, HB 1628, HB 1669, HB 1678, HB 1755, HB 1758, HB 1762, HB 1766, HB 1793, HB 1863, HB 1872, HB 1915, HB 1940, HB 1955, HB 1985, HB 1996, HB 2033, HB 2045, HB 2076, HB 2122, HB 2124, HB 2125, HB 2138, HB 2152, HB 2153, HB 2154, HB 2155, HB 2178, HB 2184, HB 2186, HB 2226, HB 2230, HB 2238, HB 2589, HB 2818, HB 2830, HB 2832, HB 2844, HB 2856, HB 2859, HB 2878, HB 2913, HB 2921, HB 3000, HB 3023, HB 3043, HB 3095, HB 3111, HB 3140, HB 3147, HB 3159, HB 3191, HB 3192, HB 3483, HB 3623, HB 3659, HCR 284

**SIGNED BY THE GOVERNOR**

May 23 - HB 100, HB 108, HB 186, HB 337, HB 362, HB 394, HB 483, HB 521, HB 561, HB 591, HB 593, HB 594, HB 702, HB 935, HB 995, HB 996, HB 1081, HB 1136, HB 1162, HB 1233, HB 1266, HB 1274, HB 1376, HB 1390, HB 1402, HB 1452, HB 1924, HB 3318, HB 3415, HB 3556